

US EPA ARCHIVE DOCUMENT

1 U.S. ENVIRONMENTAL PROTECTION AGENCY
2 PUBLIC HEARINGS
3 REGARDING EPA OBJECTIONS TO 36 DRAFT NPDES PERMITS
4 FOR DISCHARGES ASSOCIATED WITH COAL MINING

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9 Transcript of Public Hearing held on
10 June 5, 2012, commencing at 7 p.m.
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16 Frankfort Convention Center
17 405 Mero Street
18 Frankfort, Kentucky 40601
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22 Denise Y. Vasquez, RPR, KyCCR
23 Registered Professional Reporter
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1 MS. MacPHERSON: Good evening everyone. If
2 everyone could please take a seat so we can get
3 started with tonight's hearing we'd appreciate it.
4 Please come forward, start filling up the seats.
5 I know we still have quite a few people on their
6 way in, but we don't want to deny those the
7 opportunity to speak tonight and wait too long.

8 Great. My name is Charlie MacPherson, and
9 I'll be facilitating tonight's session. We also
10 have sign language interpreters with us, and we've
11 been asking, as they come in, if they need that
12 service. But if there's anyone who does, if you
13 could stand up, we want to make sure you are
14 seated near the front. Okay, I don't see anyone
15 right now.

16 Now, my role tonight as facilitator is to
17 ensure that as many people as possible have the
18 opportunity to share their comments and that we
19 maintain a safe and secure environment tonight.
20 So those are my two objectives. And to help meet
21 those objectives, I just want to briefly review
22 some of the ground rules. Now, everyone should
23 have a copy of these guidelines on their chair,
24 but I just want to highlight four of them for us.

25 First, please show courtesy to all speakers

1 and everyone here. Any disruptions, including
2 applause, which, while might be appreciated, is
3 only going to cut into someone else's time to make
4 a comment. So, please, try to minimize any
5 disruptions. For people who have registered to
6 speak tonight, we have set time limits; again, to
7 try to get as many people as possible to speak, so
8 please adhere to those time limits. And I will be
9 talking about -- more in detail about those time
10 limits in a bit.

11 For those of you who have cell phones, please
12 set them to vibrate or turn them off now. And if
13 you do need to have conversations, please exit the
14 hearing area; again, to minimize any disruptions.
15 For those people who wish to speak tonight, even
16 if you've registered on-line, you need to obtain a
17 speaker number, which is on a yellow sheet of
18 paper, so, hopefully, you have that.

19 Now, you all should have a copy of the agenda
20 on your chair. And on the back of the agenda is a
21 form in which you can make written comments
22 tonight. And you can leave those comments out
23 front at the registration table and they will be
24 made part of the administrative record. This
25 evening's hearing is being transcribed. And a

1 complete transcription will be available on EPA's
2 website.

3 Now, I want to briefly review the process
4 tonight that we're going to follow for making
5 statements. So people who have registered to make
6 a statement and have the number in the upper right
7 corner of the yellow form. We're going to limit
8 statements to two minutes; again, to try to give
9 as many people as possible an opportunity to make
10 a statement. I know it's not a lot of time; but,
11 again, you have a chance to submit your comments
12 in writing if you have more detailed statements.
13 And there is a chance that even if you do have a
14 number to speak, you may not have that
15 opportunity, depending on how long it takes us to
16 get through the other statements tonight. Due to
17 restrictions of the facility, we do have to be out
18 at 11 p.m.

19 So, now, I'm going to call the numbers in
20 blocks of 20. So the first 20, when your number
21 has been called in that block, if you could please
22 go to the back left corner where our staff will be
23 waiting and they'll meet with you to discuss in
24 more detail the process, and then you'll wait
25 before coming back -- they'll instruct you to come

1 back to make your statements.

2 At this time, I would like to have blocks 1
3 through 20, numbers 1 through 20 go in the back.
4 Our staff, he's raising his hand there, and
5 they'll brief you on the instructions, and then
6 I'll go into more detail on the process for making
7 the statements after opening remarks.

8 So, at this time, I'd like to introduce
9 Mr. Jim Giattina, who is the presiding officer for
10 tonight's hearing. Jim.

11 MR. GIATTINA: Yes. Thank you, Charlie.
12 Good evening, folks. I am Jim Giattina. I'm the
13 Water Division Director of the U.S. Environmental
14 Protection Agency's regional office in Atlanta,
15 Georgia. EPA's regional administrator has
16 designated me to conduct the public hearing this
17 evening. I have with me Mr. Chris Thomas, who is
18 chief of our pollution control and implementation
19 branch.

20 And let me start by thanking all of you for
21 taking the time to be here this evening. We
22 recognize that coal mining operations are
23 critically important for Kentucky and for meeting
24 our energy needs as a nation. We recognize that
25 many of you are worried about your jobs. We also

1 know that many of you are concerned about the
2 impacts coal maning -- coal mining may have on
3 your health and environment. The purpose of this
4 hearing is to listen to your concerns, especially
5 as they relate to the 36 permits EPA has objected
6 to that are the subject of this hearing.

7 I want to note that EPA and the Kentucky
8 Energy and Environment Cabinet have been working
9 over the past two years to identify a set of
10 common sense practices and appropriate permit
11 conditions that we believe will protect and
12 improve water quality while addressing the
13 industry's concerns for clarity and cost
14 effectiveness. Most of these practices have been
15 developed by experts here in Kentucky and are
16 beginning to be implemented by local mines. For
17 example, some mining companies are redesigning
18 mines to reduce the number, size, and location of
19 fills. They are more carefully monitoring
20 pollution levels, instream biology at their mines,
21 and they're using realtime adaptive management
22 techniques to prevent problems in downstream
23 waters. They are beginning to find, target, and
24 isolate specific sources of pollutants to keep
25 them away from the water. And it's this kind of

1 innovation and care that will help ensure that
2 coal mining remains a vibrant part of the local
3 economy.

4 Our desire at EPA is for the Commonwealth to
5 move forward and issue permits that require these
6 kind of innovative approaches and that have
7 appropriate pollutant limits to protect water
8 quality. Let me briefly give you some additional
9 background information that is important for you
10 to understand as you make your oral or written
11 comments. The permits we are discussing are water
12 discharge permits, known as National Pollutant
13 Discharge Elimination System, or NPDES, permits.
14 These are required by the Clean Water Act. An
15 NPDES permit is the basic tool for controlling
16 water pollution, and it contains conditions and
17 limitations to protect water quality and its many
18 uses, such as fishing, swimming, canoeing, and as
19 a source of drinking water. The Clean Water Act
20 requires that NPDES permits include pollutant
21 limits stringent enough to ensure that discharges
22 do not cause violations of the Commonwealth's own
23 water quality standards.

24 As part of the permitting process, Kentucky
25 provides copies of draft NPDES permits to EPA for

1 our review. Since August of 2009, based on
2 information provided by the Kentucky Division of
3 Water, the Division has issued individual NPDES
4 permits for approximately 87 surface mining
5 projects and 28 underground mines or coal
6 preparation plants. Additionally, the Division
7 has allowed approximately 2,500 new and existing
8 coal mining projects to proceed under its general
9 permit authority. Over the past two years, EPA
10 has objected to the issuance of a number of
11 permits drafted by the Division, 36 of which
12 remain and are subject -- are the subject of this
13 hearing.

14 While the majority of mining projects that
15 need NPDES permits in Kentucky have received
16 authorization to go forward, EPA remains concerned
17 with mining discharges. In 2010, the Kentucky
18 Division of Water estimated that at least 1,522
19 miles of Kentucky's rivers and streams are
20 threatened or impaired due to mining. Recent
21 studies, as well as the experiences of coal-filled
22 communities, point to new environmental challenges
23 largely unknown even 10 years ago. Sediment,
24 salts, and metals that runoff from poor mining
25 practices can destroy the habitat that sustains

1 fish and other forms of aquatic life in eastern
2 Kentucky waterways. They threaten sources of
3 drinking water and can affect the quality of life
4 for the people of this region. Our objections to
5 these 36 draft NPDES permits are based on the same
6 fundamental concern, that permits must be strong
7 enough to control pollution from these mines,
8 pollution that can harm human health and aquatic
9 life.

10 This evening we are here to listen to the
11 concerns you have about these permits. In
12 particular, it is important that we receive any
13 specific information you have with regard to these
14 mines and the waters that they discharge to.

15 As Charlie said, I know that we are limited
16 on time and how many people can speak this
17 evening. I encourage everyone who's interested in
18 contributing comments and unable to speak tonight
19 to do so in writing. The contact information was
20 provided on your chair this evening. We will hold
21 the public comment period open until June 21st, so
22 we'll be accepting written comments up until that
23 time. I want to emphasize at this point that no
24 final decisions have been made. After considering
25 all of the comments, the data and information

1 received on the permit objections, EPA's regional
2 administrator in Atlanta will make a decision to
3 reaffirm, modify, or withdraw each of our original
4 objections. Once these decisions have been made,
5 we will notify the Kentucky Division of Water,
6 each of the permit applicants, and all of those
7 who have registered and provided a mailing address
8 to us. Our decision will also be posted on EPA's
9 website.

10 If we withdraw any of our objections, the
11 Kentucky Division of Water will be able to move
12 forward and issue those permits. If we reaffirm
13 or modify any of our objections, the Division of
14 Water can send us revised draft permits within 30
15 days that address our concerns. If for some
16 reason we cannot reach agreement with the
17 Division, then EPA will issue a permit for those
18 particular mines. However, as I said earlier, I
19 am hopeful that we will be successful in reaching
20 agreement with these permits. It is our
21 opportunity to hear directly from you this
22 evening.

23 I want to thank you again for being here and
24 for participating in this process. And at this
25 time, I'll turn it back over to Charlie, who will

1 moderate the rest of our hearing.

2 MS. MacPHERSON: Thanks, Jim. If everyone
3 could come forward. Oh, you're the -- the 20
4 block. You stay right there. Next, I'd like to
5 ask Secretary Peters of the Kentucky Energy and
6 Environment Cabinet, and followed by Commissioner
7 Bruce Scott of Kentucky Department for
8 Environmental Protection, to come up and make some
9 opening remarks. Gentlemen, mind the fort. Sorry
10 about that.

11 SECRETARY PETERS: Thank you very much. Good
12 evening. I am Len Peters, Secretary of Kentucky's
13 Energy and Environment Cabinet. And on behalf of
14 Governor Steve Beshear, I want to thank Region 4
15 for conducting this hearing to receive comments on
16 their objections to Clean Water Act permits for
17 surface mining operations in eastern Kentucky.

18 Today's hearing is unprecedented in Kentucky.
19 Also unprecedented is the state feeling compelled
20 by matters of principle to sue the U.S. EPA, which
21 we did in 2010 because of what we deemed to be
22 arbitrary and inconsistent application of policies
23 governing mining operations. My comments today
24 regarding EPA's objections to these permits,
25 therefore, are consistent with the concerns we

1 have expressed for more than two years now
2 regarding this issue.

3 As someone responsible for overseeing the
4 state's environmental protection programs, I
5 support and am, in fact, obligated to enforce
6 regulations necessary to protect our land, air,
7 and water resources. We can and must do all that
8 is reasonably possible to protect our environment
9 and the lives and health of our citizens. We have
10 federal and state laws and regulations that not
11 only guide this process but that bind us so that
12 our decisions are not arbitrary, political, or,
13 otherwise without basis. Environmental permitting
14 is not designed to stop legitimate business
15 activities, whether we are talking about a mining
16 activity, a manufacturing facility, or a water
17 treatment plant. Rather, permitting is to ensure
18 these activities are done in accordance with
19 existing laws and regulations. Regulators and a
20 regulated community need certainty in this
21 process. In addition, regulators and a regulated
22 community need to be assured that decisions are
23 made fairly and reasonably based on accepted
24 scientific studies and analysis.

25 The Energy and Environment Cabinet and U.S.

1 EPA have an important partnership, and we share
2 the same mission, to protect human health and the
3 environment and to ensure environmental protection
4 laws and regulations are implemented and enforced
5 fairly and reasonably. Kentucky cannot simply
6 reject surface mining permit applications that are
7 in accordance with existing laws and regulations.
8 Despite the rhetoric from some, surface mining,
9 including mountaintop removal mining, is a legal
10 form of mining that occurs on privately-owned
11 land. We follow the federal Surface Mining
12 Control and Reclamation Act, the Clean Water Act,
13 and other federal provisions in operating the
14 Kentucky program. Coal can be and is being mined
15 in an environmentally responsible manner. We
16 continue to make improvements, and the industry
17 has been willing to do things better. For
18 example, the Beshear Administration initiated a
19 novel approach to ensuring enhanced environmental
20 protection of surface mining operations through a
21 fill minimization process, a protocol that should
22 have been enhanced -- embraced by the EPA but was
23 not.

24 All sources of energy production in use, even
25 renewables, have an environmental impact. But

1 existing laws and regulations are in place to
2 minimize impacts and to reclaim mined land. That
3 is why it is disconcerting to us that EPA has
4 applied a specific benchmark, that is
5 conductivity, to Appalachian coal mining, a de
6 facto standard that has been based on what should
7 be very narrowly interpreted incomplete science,
8 not one that should be a surrogate measure of
9 overall water quality.

10 I read an opinion piece in the paper this
11 week that even misrepresents the facts by saying
12 that conductivity is a measure of contamination.
13 The EPA knows and I know that this is not true,
14 and yet many people do not know otherwise.
15 Governor Beshear and I recognize and respect that
16 EPA has a responsibility and obligation to revise
17 and update regulations and program requirements as
18 necessary to protect human health and the
19 environment. However, EPA should not create new
20 regulatory requirements that have not undergone
21 the appropriate Congressional or rulemaking
22 processes. As it is, EPA is preventing through
23 its objection process, Kentucky, a delegated
24 state, from issuing permits with no recourse for
25 us or for the regulated community or for the

1 thousands of Kentuckians that depend on mining for
2 their livelihoods. We should not allow a few
3 studies, studies that have credible counterpoints,
4 to determine the economic destiny of one region of
5 the country. We have allowed rhetoric and
6 misinformation to overwhelm what should be a
7 legitimate discussion of very important issues,
8 jobs, human health, the environment, and the
9 rational application of administrative oversight.

10 I will close by saying that I appreciate the
11 efforts of the staff within Region 4. They worked
12 closely with our Cabinet to arrive at a solution
13 to move these permits forward. We were assured by
14 headquarters that if we were to reach agreement,
15 which we did, that EPA would honor that agreement.
16 Unfortunately, that ultimately was simply not the
17 case. And many months later, we are still
18 experiencing the consequences of headquarters'
19 actions.

20 (Applause)

21 COMMISSIONER SCOTT: Good evening. My name
22 is Bruce Scott. I'm the Commissioner of the
23 Kentucky Department for Environmental Protection.
24 I thank you for the opportunity to provide
25 comments today regarding EPA's permit objections

1 to 36 draft Kentucky NPDES permits for discharges
2 associated with coal mining operations in eastern
3 Kentucky.

4 The Commonwealth of Kentucky has been
5 delegated authority by U.S. EPA to administer the
6 NPDES program in Kentucky since 1983. Since 1983,
7 there have been tens of thousands of NPDES permits
8 proposed and issued by Kentucky for wastewater and
9 storm water discharges across the Commonwealth,
10 ranging from individual homes, to cities, to
11 industries, and to coal mining operations. The
12 Agency is aware of only one prior instance where
13 an EPA permit objection of the Kentucky proposed
14 draft NPDES permit may have occurred. That was
15 approximately 25 years ago for an industrial
16 operation. No previously proposed NPDES permit
17 for a coal mining operation has ever previously
18 been objected to. However, since April of 2010,
19 EPA has objected to approximately 40 proposed
20 individual NPDES coal mining permits and has
21 approved only one individual NPDES permit for a
22 new or expanded surface mining operation in
23 eastern Kentucky. Since receiving NPDES program
24 delegation in 1983, Kentucky has maintained
25 conformance with federal EPA regulatory

1 requirements. Simply stated, Kentucky's
2 regulations and regulatory requirements are the
3 same as the federal EPA regulations and regulatory
4 requirements.

5 With regard to the 36 EPA permit objections
6 subject to the public hearing here today, it is
7 noteworthy to point out that EPA has not made any
8 changes to the federal NPDES regulations that are
9 subject of these permits since April of 2010. In
10 addition, there have been no changes to the
11 applicable state or federal water quality
12 standards that apply to Kentucky waters that are
13 at issue in these permit objections since April
14 2010. The question, therefore, must be asked:
15 What changed? What state or federal regulations
16 have changed that has resulted in these EPA permit
17 objections starting in April of 2010.

18 While that question remains pending, Kentucky
19 has continued to work extensively with EPA to
20 address EPA's evolving comments and concerns that
21 have been expressed over the past two plus years.
22 Kentucky has provided numerous proposed draft
23 permits, both formally and informally, consistent
24 with existing state and federal regulations in an
25 effort to resolve these objections. We've

1 remained committed and hopeful that a resolution
2 to these objections can and will be achieved.

3 With specific respect to the EPA permit
4 objections subject to this public hearing, EPA's
5 stated concerns primarily fall into two
6 categories. First, with respect to how the
7 reasonable potential analysis, or RPA, was
8 performed to determine whether the proposed
9 discharges have a reasonable potential to cause or
10 contribute to a violation of Kentucky's water
11 quality standards. And, secondly, the
12 establishment of permit requirements in accordance
13 with the determinations of that reasonable
14 potential analysis.

15 With respect to the first issue, Kentucky
16 followed existing EPA-approved RPA procedures,
17 regulations, and application requirements
18 consistent with 40 CFR 122.44 and 40 CFR 122.21.
19 Specifically, Kentucky evaluated available
20 discharge data and/or requested discharge data
21 where it was unavailable for a new discharge, as
22 per existing regulatory requirements and
23 permitting procedures.

24 With respect to the second issue, Kentucky
25 imposed a combination of chemical specific

1 limitations and monitoring requirements, whole
2 effluent toxicity limitations and monitoring
3 requirements, best management practices
4 requirements, and instream biological assessment
5 requirements and limitations. In addressing -- in
6 addition to addressing individual parameter RPA
7 requirements, the narrative water quality standard
8 for conductivity and total dissolved solids is met
9 via the combination of these permit requirements,
10 consistent with 40 CFR 122.44. In addition, the
11 instream biological assessment requirements are
12 designed to address the site specific nature of
13 the receiving stream, as specified in the
14 narrative water quality standards cited in 401 KAR
15 10.031 Section 4(1)(f).

16 In light of these facts, we respectfully
17 request that EPA withdraw its permit objections.
18 And we look forward to continuing to work with EPA
19 in our ongoing effort to bring resolution to these
20 issues in a timely manner. Thank you again for
21 the opportunity to provide these comments. We
22 will be providing additional written comments on
23 these EPA permit objections. Thank you.

24 (Applause)

25 MS. MacPHERSON: Okay. Thank you. That

1 concludes the opening remarks. And at this time,
2 I'd like to call down the first block of 20
3 speakers, with the even number speakers behind
4 this microphone (indicating), the odd number
5 behind this microphone (indicating). And if the
6 second block, numbers 21 to 30 could go out in the
7 back and meet the staff, and we will start the
8 cycle here; again, so we could try to hear as many
9 comments as possible.

10 So, as I call your number, please step up to
11 the microphone, state and spell your name, as I
12 mentioned, we are preparing a transcript, and the
13 organization you're representing. Also, please
14 mention if there's any specific permit you're
15 referring to, or if you're just speaking in
16 general terms please mention that as well. We
17 will then start the timer, which you see up on the
18 screen just to help you with your time management.
19 So after you say your name, organization, and if
20 you're speaking about a specific permit, then
21 we'll start the timer, and you'll have two minutes
22 in which to make your statement. I request that
23 you do stop speaking when the two minutes is up.
24 We will also help you with that by being able to
25 mute the microphone, because then I want to move

1 to the other speaker to give them a chance to
2 speak. Again, please show courtesy to all the
3 speakers and respect the time limits so that we
4 can get as many comments as possible tonight. If
5 you have brought a written copy, we -- also you
6 may leave it at the registration table to help us
7 out.

8 Okay. So let's get going. Starting with
9 number 1.

10 SPEAKER NO. 1: I'm Terry Carmack, and I'm
11 representing Senator Mitch McConnell, the
12 Republican Leader of the United States Senate.
13 "Today, I welcome the opportunity to provide my
14 comments about the Environmental Protection
15 Agency's objections to 36 Kentucky specific
16 permits. Unfortunately, Congress is in session
17 this week, so I cannot attend this important
18 hearing in person. Like most of the country,
19 Kentucky is suffering from a very difficult
20 economic times. Far too many Kentuckians are
21 unemployed and the prospect for future employment
22 remains daunting, and that's why it is especially
23 irritating that this Administration has blindly
24 followed ideological policies that eliminate jobs
25 in our communities. The people of Kentucky are

1 amongst the hardest working on the planet. But
2 how can we be expected to compete if our own
3 government is working against us. Simply put, my
4 constituents are under siege from the Obama
5 Administration's regulatory agenda, and the EPA is
6 the worst offender.

7 These 36 objections are further proof of this
8 siege. Perhaps the clearest example of this
9 Administration's regulatory assault is its war on
10 coal. Since being sworn in, President Obama's EPA
11 has set out to circumvent the will of Congress and
12 the American people by turning an already
13 cumbersome mine permitting process into a backdoor
14 means of shutting down coal mines. 18,000
15 Kentuckians work in coal mining. And nearly
16 200,000 more, including farmers, realtors,
17 transportation workers, rely on the coal industry
18 for their jobs. Attacking an industry so
19 important to Kentucky will only succeed in putting
20 more people out of work, impeding future growth --
21 job growth and increasing energy prices.

22 A former EPA official under the Obama
23 Administration recently summed up the regulatory
24 philosophy of the Agency with respect to those
25 working in the coal business by saying it wants to

1 crucify them. This radical environmental
2 anti-coal agenda must stop." Thank you very much.

3 (Applause)

4 MS. MacPHERSON: Thank you. Okay. And thank
5 you. Well done on the time management. He set
6 the bar perfectly. So next speaker, number 2.

7 SPEAKER NO. 2: My name is James Milliman,
8 State Director for Senator Rand Paul. And like
9 Senator McConnell, Senator Paul is in Washington
10 today in session fighting the EPA. (Applause).
11 And he -- he has prepared a written statement that
12 he's filed as of -- as of the record.

13 But I want to say, ma'am, look -- look out at
14 this crowd, and I want the EPA to take a look out
15 here and see what they see. They see Americans.
16 They see Kentuckians. They say -- they see people
17 for 250 years have given their lives. They've
18 scraped in the mines, they've gone through mine
19 disasters, and they have provided energy for the
20 rest of this country, and now we have people in
21 this country, including the President of the
22 United States that wants to spit on them.
23 (Applause). And, madam, the EPA can say all it
24 wants about hearings and all of this. These
25 people do not trust the EPA (Audience members

1 respond) and they have no reason to trust the EPA.
2 It is the EPA's burden to show that they are
3 worthy of their trust. They have not shown it.

4 When the President of the United States says
5 he wants to bankrupt their businesses, their
6 livelihoods, put them out of work, how can they
7 trust the EPA? When EPA officials say they want
8 to crucify their companies, like the Romans did to
9 the dissonance in Ancient Rome, when they aren't a
10 battleground state, would you be taking this
11 position singling out Kentucky if it were a
12 battleground state like Ohio and Illinois? No,
13 you wouldn't. They are being penalized.

14 (Applause). They are being punished because they
15 disagree with this Administration. And it is time
16 for the EPA to stand up to its responsibility
17 (Audience members respond) and listen to the
18 people because you cannot silence them. They will
19 not be silenced. (Applause). They will stand up.
20 Thank you.

21 (Applause)

22 MS. MacPHERSON: Okay. Thank you. Thank
23 you. Again, any cheering, it's just going to
24 delay the -- the statements. (Audience members
25 respond). But, so, I appreciate the timing. We

1 want to give people an opportunity, you all an
2 opportunity to speak tonight. So number 3,
3 please.

4 SPEAKER NO. 3: My name is Bill Nave, and I'm
5 here on behalf of Congressman Ben Chandler to read
6 excerpts of the following letter put in the
7 record. "As you know, the Kentucky Energy and
8 Environment Cabinet requested a meeting with your
9 office over a year and a half ago to discuss the
10 EPA's objections to 36 permits approved by the
11 state. I am grateful your office has responded by
12 scheduling these hearings to give my constituents
13 an opportunity to convey the importance of coal to
14 our state, as well as to express concerns over the
15 application of guide -- guidance standards to the
16 permit. Coal is critically important, abundant,
17 inexpensive, and domestic energy source for this
18 great nation. And in recent years has been the
19 subject of many of your Agency's new regulations.

20 Coal is a source of electricity for over
21 one-third of the United States. It supports many
22 small businesses and union jobs. Further, while
23 our country needs to diversify its energy
24 resources, coal is here to stay for the long-term
25 and will remain a necessary and vital part of our

1 energy policy.

2 One of my chief concerns is whether your
3 Agency is engaging in regulatory and
4 jurisdictional overreach by basing rulings on mere
5 advisory guidance rather than laws made by elected
6 officials or promulgated regulations. I'm also
7 concerned the EPA is exercising unnecessary
8 oversight on decisions made by the state's
9 permitting authority, the Kentucky Division of
10 Water. While I believe at being good stewards of
11 the environment is critical, I also believe in
12 obeying and upholding current laws important to
13 companies that have clearly defined standards
14 under which to operate.

15 Excessive and unnecessary regulation will
16 result in higher energy prices and unemployment in
17 the state already struggling economically.
18 (Audience member responds). Without a doubt,
19 proximity to the coal industry has helped improve
20 the quality of life, Kentucky families and
21 communities, providing inexpensive electricity,
22 over 3,800 jobs and 123 million in coal severance
23 taxes to be reinvested in our great Commonwealth.
24 EPA needs to recognize that coal is not the enemy
25 and have -- can have environmental as well as

1 economic and national security benefits.
2 (Audience member responds). I respectfully
3 request your Agency listen to their concerns."
4 Thank you.

5 (Applause)

6 MS. MacPHERSON: Thank you. Thank you. And
7 if I could request to please try to speak as
8 clearly as possible. Our interpreters are having
9 a hard time understanding and they want to make
10 sure they capture all that. So, thank you. Okay.
11 Number 4.

12 SPEAKER NO. 4: Danielle Smoot with
13 Congressman Hal Roger's office. Congressman
14 Rogers, of course, regrets that he cannot be here
15 to join us today. He is, of course, in Washington
16 fighting the same fight on Capitol Hill like he
17 has been doing for many years for everyone here
18 today. Congressman Rogers has grave concern about
19 the Environmental Protection Agency strangulating
20 regulations on Appalachian coal. In fact, earlier
21 this year he told EPA Administrator Lisa Jackson
22 that the Agency's behavior is contemptible.
23 (Audience member responds).

24 Time and again, the EPA has tried to bypass
25 the Congress and weaken state authority.

1 (Audience member responds). And they make no
2 secret of this Administration's intentions to
3 shutdown Kentucky coal. (Audience member
4 responds). The permit process is now so complex
5 that our coal operators are jumping through
6 regulatory hoops trying to understand the constant
7 shift in standards and rules that don't apply to
8 everyone. What we do know, what is clear is that
9 only one 404 individual permit has been approved
10 for new surface mining operations in Kentucky in
11 three and a half years. (Applause). That is
12 downright shameful.

13 Congressman Rogers has made it clear that
14 just because you're pro coal doesn't mean that
15 you're against the environment. He is the
16 co-founder of the eastern Kentucky PRIDE
17 organization that has invested environmental
18 education in every school district in southern and
19 eastern Kentucky, has inspired upwards of 33,000
20 volunteers to clean up our hillsides every spring
21 and remove nearly 30,000 straight pipes from our
22 streams. In fact, some of PRIDE's most proud
23 sponsors and volunteers are coal operators and the
24 people sitting right here today. (Applause).

25 No one here wants to eliminate environmental

1 laws. That's not our purpose. But we do expect
2 them to be applied fairly and consistently so our
3 coal mining families can build a business, start a
4 family, or buy a home without the fear of a pink
5 slip because another permit is on hold. The EPA
6 has a duty to protect the environment. But this
7 duty must be fairly applied under the law and
8 executed absent of political agendas.

9 On behalf of the men and women of southern
10 and eastern Kentucky, Congressman Rogers asks that
11 the EPA overturn its objections to these permits.
12 Thank you.

13 (Applause)

14 MS. MacPHERSON: Okay. Thank you. Number 5.

15 SPEAKER NO. 5: Hi. I'm Brian Smith, and
16 I've got a statement here from U.S. Congressman
17 Brett Guthrie. "Though, I regret I cannot be
18 present to attend this hearing on account of votes
19 in the House of Representatives, I want to make it
20 clear that I am fully opposed to the war on coal
21 that has been waged by the Obama Administration.
22 Coal isn't just about mining jobs, it's about all
23 jobs. My background is in manufacturing and my
24 family owns and operates Trace Die Cast, an
25 automotive supply facility in Bowling Green.

1 Manufacturing is an energy intensive business and
2 Kentucky is one of the most attractive states in
3 the nation for manufacturers because of
4 electricity rates that are consistently among the
5 lowest in the nation. The affordable electricity
6 guaranteed to us by coal has been a major
7 contributor to attracting global employers like
8 Ford and Toyota. And as we all know, our country
9 has to be a nation that makes things if we are
10 going to compete in the global economy. (Audience
11 member responds).

12 Despite this, President Obama and EPA
13 Administrator Lisa Jackson have made a point of
14 attacking the energy-producing, job-creating coal
15 industry that powers American industry. President
16 Obama, acting through the EPA, has stifled the
17 mining industry. EPA's strangulation by
18 regulation is the cause for today's hearing. But
19 it is by no means the only front in this
20 Administration's war on coal.

21 Indeed, the Obama Administration is attacking
22 coal on numerous fronts. In Kentucky, the EPA is
23 delaying, denying, or obstructing the permits
24 needed to extract it from the ground. Nationwide,
25 the EPA is imposing regulations on power plant

1 emissions that are unworkable and unaffordable in
2 hopes of drowning out the industry with billions
3 of dollars in new regulation. At the same time,
4 the EPA is attempting to reclassify coal ash
5 leftover from combustion as hazardous waste, when
6 it is directly counter to EPA's own scientific
7 findings.

8 The last case is particularly informative.
9 As EPA attacks coal at every stage of its life
10 cycle, from extraction to disposal, it is doing so
11 with little regard for science or environmental
12 protection. For EPA, it's about ending coal first
13 and protecting the environment second."

14 (Applause)

15 MS. MacPHERSON: Thank you. Okay. Speaker
16 number 6.

17 SPEAKER NO. 6: My name is David Williams,
18 W-i-l-l-i-a-m-s. I am President of the Kentucky
19 State Senate and former Chair of the Council of
20 State Governments in the Southern Legislative
21 Conference. First, I would like to welcome the
22 Environmental Protection Agency to a
23 coal-producing state. (Applause). A
24 coal-producing state that understands that even
25 the provisions of the Clean Water Act allow

1 variances that can be regulated from requirements
2 of enforcement when there is widespread social and
3 economic disruption. Kentucky is an example, if
4 there ever was one, of widespread social and
5 economic disruption that has occurred because of
6 the, we believe, illegal actions of the
7 Environmental Protection Agency.

8 I don't mean to insult anyone on -- in the
9 Environmental Protection Agency. We just state a
10 fact, and that fact is Kentuckians, not just coal
11 miners, but all Kentuckians are seriously damaged
12 by the actions of this Administration and the
13 Environmental Protection Agency. (Applause). I
14 strongly -- I am here -- I am here as a legislator
15 and President of the State Senate to redress a
16 grievance and to petition my government, all of
17 our government, to withdraw the permit
18 applications and allow Kentucky miners to go back
19 to work. (Applause).

20 April 1, 2010 is an important date. It
21 wasn't just April Fool's Day, it was the date that
22 guidance was issued, not a law, not a regulation,
23 but a guidance, which forever changed in the minds
24 of Kentuckians the level of trust they have for
25 their government. That guidance changed the

1 interpretation of regulation and law. And from
2 that date forward we were not allowed to proceed.
3 We weren't allowed to amend the permits that were
4 in process, and permits were denied and not
5 issued.

6 We believe that this is a wrongful use of
7 power by the federal government. We as individual
8 states have constitutional authorities and we're
9 here to redress that grievance. Thank you for
10 listening to each and every one of us. Do the
11 right and fair thing and let our permits free so
12 we can put our people back to work.

13 (Applause)

14 MS. MacPHERSON: Thank you. Thank you.
15 Okay. Speaker number 7.

16 SPEAKER NO. 7: I'm Robert Stivers. I am the
17 State Senator from Clay County and the majority
18 floor leader of the Kentucky State Senate. I come
19 here as a policymaker, and I do understand the
20 fact that there will be, upon the actions of the
21 EPA, a loss of taxes and a severance tax, which
22 runs our state and local governments. I
23 understand the policy and the impact of the fact
24 that many people who do not work directly in the
25 mining industry, but work in the steel industry,

1 the aluminum industry, the -- the rail industry,
2 the automobile industry, will lose their jobs and
3 we will not be competitive because prices for
4 energy and the rates on the kilowatt hour will go
5 up.

6 I understand that people who work directly
7 have secondary jobs in the coal industries, such
8 as truck drivers, equipment salesmen, people who
9 work for selling supplies, every mom and pop
10 grocery store that sells pickled bologna, a moon
11 pie, and a Pepsi to these people who go there and
12 work will be impacted. But I'm not here to talk
13 the policy and the principle of that.

14 What I'm here to tell you, as being from Clay
15 County, as I walked in here and there are
16 thousands more people outside, that there are
17 consequences to the EPA's actions or inactions.
18 When I see a friend that I sat down next to, Bobby
19 Collins, it's my neighbor, or I get a call from my
20 relative who says, "I'm afraid I'm going to lose a
21 job," who's been working for ICG for almost 30
22 years or the subsidiaries, but most importantly,
23 when my 22-year-old son walked in last night and
24 was so proud to say he worked in the coal industry
25 running an auger, that he may lose his job due to

1 the regulatory actions of the EPA, I tell you here
2 as a parent, as a friend and a neighbor, this is
3 supposed to be the Administration of hope and
4 change. Well, you have changed the rules. And my
5 people have lost their hope for an opportunity to
6 work in the area that they come from. And I ask
7 you to realize the consequences of your actions.

8 (Applause)

9 MS. MacPHERSON: Thank you. Thank you.
10 Yeah, I just want to say before speaker 8, I
11 really appreciate everyone adhering to the time
12 limits and showing courtesy to the speakers.
13 That's going to help us get as many comments as
14 possible tonight. I appreciate that. Thank you.
15 Number 8.

16 SPEAKER NO. 8: Senator Robin Webb, W-e-b-b.
17 I represent the 18th District where we have river
18 and rail direct impact. I want to welcome the EPA
19 here today. And before I was elected to the
20 Senate, I spent ten years in the House where I was
21 a second-ranking member of the Budget committee,
22 so I know first-hand the economic impact that coal
23 and the incidental industries have on this state.
24 I also knew from an early age that I wanted to
25 work in the coal industry as a coal miner. I had

1 the opportunity to do that. I wrote my high
2 school paper on SMCRA. I'm going to tell my age.
3 In 1978, and I testified at the 10-year
4 anniversary before Moe Udall's committee on SMCRA
5 in Washington, DC. I have two degrees from
6 Morehead State University, one in underground mine
7 safety and one in surface mine production. I'm a
8 former prosecutor for the Natural Resources
9 Environmental Protection Cabinet in surface mine
10 enforcement. I'm also former general counsel of
11 the 4th -- at the time, 4th largest coal company
12 in the nation, the producer in the nation. So I
13 know a little bit about the industry and I know a
14 little bit about the law.

15 And I stand before you today as an elected
16 policymaker, who is accountable to my people
17 (Audience member responds) and I say, to use a
18 legal term, ultra vires action, as administrators,
19 you have usurped elected Congressional authority
20 and imposed arbitrary and capricious rulemaking.
21 (Audience member responds). I also chaired the
22 404 Water Task Force here in Kentucky under the
23 former Secretary Wilshire. I know a little bit
24 about that, too. I know that the 404 allows for
25 variances when certain criteria of impact are met.

1 I charge to you that those criteria are met here
2 in Kentucky today.

3 And I want -- we respectfully ask to free the
4 36 permits and future permits and let my people go
5 back to work, because when you free those permits,
6 you free my people. Thank you.

7 (Applause)

8 MS. MacPHERSON: Thank you. Okay. Speaker
9 number 9.

10 SPEAKER NO. 9: Good evening. I'm State
11 Senator Dorsey Ridley, representing the 4th
12 Senatorial District in far western Kentucky. I'm
13 proud to serve three coal-producing counties,
14 Henderson, Union, and Webster, and three coal
15 using coal-supporting counties, Caldwell,
16 Crittenden, and Livingston. I serve on the state
17 Natural Resources and Environment Committee and
18 the Special Energy subcommittee, and I am a proud
19 supporter of Kentucky coal industry.

20 I was compelled to come here tonight to
21 express my utter indignation with EPA for the way
22 it has blocked permits for new and expanded mining
23 activities in Kentucky. It is oppressive to our
24 economy, hurtful to our well-being and obstructive
25 to our growth. It's unjustifiable. The EPA

1 changed the rules in the middle of the game,
2 rejecting permits after the release of new
3 regulations that were just approved the month
4 before. They disregarded practices that have been
5 in place for more than 20 years without public
6 notice or any public input.

7 The coal industry was not even given a chance
8 to modify permit applications to meet the new
9 requirements, neither was the Kentucky Division of
10 Water given the opportunity to change their
11 procedures. It's unfair. How can the coal
12 industry strive or even survive against such
13 tactics, the mines closing, losses of jobs, and
14 this hard blow, it's a hard blow to our state's
15 economy, just when we're starting to recover from
16 this recession. When the coal industry hurts, all
17 of Kentucky hurts. But it seems the EPA doesn't
18 care that Kentucky is hurting, even though it
19 excludes Pennsylvania, Ohio, and Virginia, states
20 that are in our same eco region from the new
21 regulations. It binds them only to us. Why?
22 There's no good reason why. The fine people of
23 the Commonwealth and the fine people of the 4th
24 Senatorial District deserve better than this.

25 And on behalf of the tens of thousands of

1 people in the district I represent, who support
2 the coal industry, I ask the EPA to withdraw these
3 unreasonable permit objections and to work openly
4 and justly for our state from this point forward.
5 Thank you.

6 (Applause)

7 MS. MacPHERSON: Thank you. Thank you.
8 Okay. Speaker number 10.

9 SPEAKER NO. 10: My name is Jim Gooch. I'm a
10 Democrat State Representative representing the
11 12th District in the heart of the West Kentucky
12 coalfields. I'm serving my 10th term in office,
13 and for the past 14 years I've served as Chairman
14 of the House Natural Resources and Environment
15 Committee. I'm happy to have with me here today
16 Representative Hubert Collins from Paintsville,
17 who's serving his 22nd year and is Chairman of the
18 House Natural -- the House Transportation
19 Committee.

20 You know, Kentucky is here today to talk
21 about coal because we have been very prudent in
22 our choice for sources for our electricity. Coal
23 is the most available, the most abundant, the most
24 affordable, and the most reliable source that we
25 have. So we can say that for -- in order for

1 Kentucky to go forward, coal must be a part of our
2 future. But coal has also been very important to
3 this country. It's been the backbone of this
4 nation for more than 200 years. It fueled the
5 Industrial Revolution, was critical to our success
6 in winning two World Wars, and made this nation
7 the super power that it has become. It is these
8 successes that this great nation has achieved the
9 dreams of our forefathers. These same forefathers
10 drafted the Declaration of Independence. They
11 fought and won the Revolutionary War and they set
12 into place the fundamental principles of
13 federalism that created a balance between the
14 powers between the federal and the state
15 governments.

16 Listen to these profound words from the
17 Declaration of Independence. "We hold these
18 truths to be self-evident, that all men are
19 created equal, that they are endowed by their
20 Creator with certain unalienable Rights, that
21 among these are Life, Liberty and the pursuit of
22 Happiness -- That to secure these rights,
23 Government are instituted among Men deriving their
24 power from the consent of the governed."

25 Like I say today, that we do not consent to

1 the government destroying our way of life. We do
2 not consent to the devastation of our economy, and
3 we certainly do not consent to this government
4 taking away our unalienable rights that have been
5 given to us by God, these being life, liberty and
6 the pursuit of happiness.

7 You know, the state's created a federal
8 government, not the reverse. So why would the
9 states create a government to control and take
10 away their rights? If we are to give up our
11 rights as a state, then where does this end? Will
12 federal governments give up their rights one day
13 to world governments? I think not. Thank you for
14 taking the time to hear me.

15 (Applause)

16 MS. MacPHERSON: Thank you. Thank you.
17 Speaker number 11.

18 SPEAKER NO. 11: My name is Ben Waide, B-e-n
19 W-a-i-d-e. I'm the State Representative from
20 Hopkins County, Kentucky, the 10th District. I
21 represent approximately 46,000 people. And I
22 bring to you, EPA, a message from those 46,000
23 people tonight. And that message is, you've gone
24 too far, and you know you have. (Applause). So
25 we think you're a little confused. We think

1 you've forgotten who you work for. (Audience
2 member responds). You work for us. We don't work
3 for you. (Applause). We think that you've gotten
4 a little confused about your mission. Your
5 mission is to protect the people, not attack the
6 people. (Applause). As it was mentioned earlier,
7 coal is mined in Kentucky in an environmentally
8 responsible way. Everything we do here is legal,
9 until you changed the rules. And when you do
10 that, I submit to you, respectfully, you broke the
11 law and you need to be accountable for that.
12 (Applause).

13 My message to you tonight, EPA, is that
14 you've gone too far. You've gone too far with
15 copper in Alaska, and you know what I'm talking
16 about. You've gone too far with slow-walking
17 permits for oil in the Gulf, and you know what I'm
18 talking about. You've gone too far with the Green
19 River formation, with oil in America (Audience
20 member responds) and you know what I'm talking
21 about. And you went too far when you created a
22 rule out of thin air that no coal mining operation
23 could possibly meet. (Audience members respond).
24 You went too far. When you take away the 50
25 percent of the power generation in this company --

1 in this country, do you have anything to replace
2 it with? (Audience members respond). The message
3 I have for is you've gone too far and you need to
4 be accountable for that. Thank you.

5 (Applause)

6 MS. MacPHERSON: Okay. Thank you. Thank
7 you. Speaker number 12.

8 SPEAKER NO. 12: Thank you. My name is Stan
9 Lee. I represent the 45th District, which is
10 Fayette County in Lexington in Central Kentucky.
11 And I have a message for some of my friends from
12 the left who are here today. There's not a coal
13 miner, coal operator, or anyone in here who wants
14 dirty water. (Applause). That's not what this is
15 about. It's never been about that. It's never
16 been about the Clean Water Act or the Clean Air
17 Act. It's been about a president who has decided
18 to punish the state that didn't vote for him in
19 2010. (Applause). And it's about a state that
20 ain't going to vote for him this year.
21 (Applause).

22 Now, I'm here to tell you that the people in
23 Central Kentucky, we don't have a coal mine, we
24 don't produce coal, but we use an awful lot of
25 energy, and we are one of the economic drivers of

1 the entire state. And by hurting coal, you hurt
2 our ability to attract industry to this state, to
3 move our state forward. You're depressing not
4 only eastern Kentucky and western Kentucky, you're
5 depressing the entire state. It's deplorable.
6 (Applause). So I call on -- I call upon the EPA
7 and President Obama to quit hiding behind the
8 Clean Water Act, to quit hiding behind the Clean
9 Air Act, or any other act they can think of and
10 come out and tell us what this is about. This is
11 about punishing a state and punishing an industry
12 that you just happen to not agree with.

13 I would ask the EPA to withdraw your
14 objections to these mining permits, allow these
15 fine men and women to go back to work, and allow
16 our state to move forward. Don't depress our
17 state, allow us to move forward. Thank you.

18 (Applause)

19 MS. MacPHERSON: Thank you. Okay. Speaker
20 number 13.

21 SPEAKER NO. 13: My name is Brent, B-r-e-n-t,
22 Yonts, Y-o-n-t-s. I'm State Representative from
23 the 15th Legislative District covering Muhlenberg,
24 Christian, and Hopkins County in the coal center
25 of the west Kentucky. Muhlenberg County in 1960

1 produced more coal than any other site in the
2 world. It is home to Tennessee Valley Authority's
3 Paradise steam plant, which provides electricity
4 from coal to about a million homes in this region.
5 Coal produces 94 percent of the electricity in the
6 state of Kentucky. It produces 51 percent of the
7 electricity in these United States. Coal miners
8 make \$65,000 per year on the average.

9 The federal agencies, in particular, tonight,
10 the EPA is going against the law. You are
11 usurping public policy. You are creating law
12 without authority from Congress, without any
13 regulations documenting or supporting any exercise
14 of authority you're attempting to make. By not
15 following the rule of law, and this is a country
16 of law (Applause), you are -- you are overreaching
17 the promisee that Kentucky has in citing permits
18 for surface mining. You are overreaching in a lot
19 of areas about water, about air. You have
20 violated the sovereignty of the Kentucky --
21 Commonwealth of Kentucky. You have violated the
22 Federal Administrative Procedures Act in how you
23 have acted in making these changes and regulations
24 through the guidance that was referred to above.

25 You are pursuing a self-centered arbitrary

1 policy against coal, against surface mining in
2 Kentucky, all of which we are doing perfectly
3 legally. And we have promisee. You are second.
4 You are abusing the policy. There's different
5 opinions about whether mountaintop mining should
6 happen. But that's not the question. We have
7 regulations in place. We follow the law. You're
8 not following the law.

9 Please remove these objections to the
10 permits. Do not deprive us of jobs. Let our
11 people go back to work. And as our Governor said,
12 "Get off our back."

13 (Applause)

14 MS. MacPHERSON: Thank you. Okay. Speaker
15 number 14.

16 SPEAKER NO. 14: My name's Fitz, F-i-t-z,
17 Steele. I represent the 84th District, the number
18 two and three largest coal-producing counties in
19 this Commonwealth. I have here with me, the first
20 lady of coal, Representative Leslie Combs, Pike,
21 Letcher, Harlan, and Representative Edmonds from
22 Breathitt County. (Applause).

23 First of all, I'm a Democrat. I'm Vice Chair
24 of Natural Resources Committee, and I know more
25 about coal mining than any of your EPA. I had

1 Ms. Knowles [ph], I met with her a little over a
2 year and a half ago, everything she told me has
3 not come true and has not happened. Every one of
4 you all drank water tonight. You've broken the
5 law according to yourself. Take the bottles back
6 and check the conductivity levels. (Applause).

7 First, I want to thank everyone for coming
8 tonight to support Kentucky coal and our coal
9 miners. I hope you all understand where we're
10 coming from. This is my signature industry, the
11 coal industry. I am a coal miner. I've been a
12 coal miner for 20 some years and will be until the
13 day I die. (Applause).

14 I've traveled 138 miles; Representative Combs
15 is at 160 some; Representative Edmonds is about
16 115, to take up for our people. We each represent
17 over 44,000 people in this Commonwealth. They
18 hire us to do this. They elect us. You all have
19 a president in Washington that has targeted coal
20 since Day 1. There has not been a permit release
21 since April 1st, 2010. I'm asking you to release
22 the permits, let our people go back to work, and
23 let's get going.

24 I have in the teens that are being held up
25 for no reason, no reason whatsoever. The problem

1 in the east is not the coal mining in the water,
2 it's the straight pipes, it's the pollution. Look
3 at House Joint Resolution 11 that I passed through
4 the House and they let come through the Senate
5 that our federal delegation has, redirect that 404
6 money. Put it to cleaning up the straight pipes
7 and the sewers that's going into our rivers and
8 waterways. (Applause). The Kentucky River was
9 112 the last time right out here it was tested,
10 nowhere near a coal mine. Thank you.

11 (Applause)

12 MS. MacPHERSON: Thank you. Okay. Speaker
13 15.

14 SPEAKER NO. 15: I'm State Representative Kim
15 King, K-i-n-g. I represent the 55th District,
16 which is Anderson, Mercer, and Spencer Counties,
17 and I'm the Republican Vice Chair of Tourism and
18 Energy Committee. I am proud to serve two
19 Kentucky utilities facilities, the E.W. Brown
20 generating plant in Mercer County and the Tyrone
21 generating plant near Lawrenceburg. The E.W.
22 Brown generating plant has been valuable in
23 maintaining Mercer County's local economy as the
24 company made expensive improvements to their
25 existing campus. The many dollars spent on food,

1 gas, lodging, aggregate, and many other supplies
2 is greatly appreciated. Our other local
3 industries require at least moderate amounts of
4 affordable, reliable coal-powered electricity to
5 produce and distribute their products.

6 While the Environmental Protection Agency may
7 have good intentions, I strongly disagree with the
8 two-year delay in issuing permits for new and
9 expanded projects of mining Kentucky coal. The
10 Kentucky Division of Water has adhered to EPA
11 protocol in issuing Clean Water Act permits for
12 more than 20 years. It's my understanding the
13 EPA's criteria changed even though there was no
14 revision in existing fundamental regulations or
15 laws. Based on my research, this ongoing delay
16 has cost Kentucky 3,800 jobs and 123 million in
17 coal severance taxes. More than 70,000
18 Kentuckians proudly benefit from our
19 Commonwealth's valuable coal industry. Most of
20 these individuals and their families live in the
21 site areas and value clean air, water, and soil as
22 much as anyone else. They desperately need the
23 economic health and social benefits a thriving
24 coal mining industry provides. We don't have to
25 choose human wellness at the expense of

1 economic and -- growth and prosperity. These
2 priorities are not mutually exclusive.

3 As an elected public servant, it is my
4 responsibility to protect the Commonwealth to the
5 best of my ability. My colleagues from both
6 political parties and I stand united against
7 unelected agency policy and an agenda focused on
8 crucifying domestic fossil fuel production and
9 necessarily skyrocketing America's energy cost.
10 The EPA should withdraw these 36 permit
11 objections. Thank you.

12 (Applause)

13 MS. MacPHERSON: Thank you.

14 PUBLIC SPEAKER: I'm Denny Noble, D-e-n-n-y,
15 N-o-b-l-e, County Judge Executive, Perry County.
16 (Applause). I'm not here for political reasons.
17 I'm here for these people. I'm an ex-coal miner
18 myself. I know how I raise my family. My two
19 sons gone to metal fabrication shop that works off
20 the coal mines. These coal mines shutdown,
21 they're shutdown. These people right here shuts
22 down, how much money does the state government
23 lose? How much money does the federal government
24 lose? You cannot balance a budget by cutting down
25 jobs. Our own employment rate is as high as it's

1 ever been in history. We've lost over -- over
2 2,000 jobs, thousands of jobs already in these --
3 in these small counties. That affects hundreds of
4 thousands. That reflects out to -- to -- to -- to
5 store owners, everything that goes. But I feel
6 like our federal government is walking down the
7 steps backwards. They're reversing of what they
8 should be doing.

9 When I became county judge, I balanced the
10 budget. You can't barter yourself out of debt.
11 It's impossible to barter yourself out of debt.
12 When you put these people out of work, you've lost
13 income, you've lost taxes. Has anybody ever, ever
14 stopped to think of how much money, how much
15 abandoned mines' money that goes to the federal
16 government? Has anybody ever looked at that?
17 Have you ever looked at that study?

18 Our -- our water lines, our shorelines, we
19 have open lines in Perry County running in the
20 creeks today. The only way that we can stop that
21 is by coal severance money. We work every day
22 running water lines, running sewer lines, by what
23 these people work out. Every county in eastern
24 Kentucky works the same way. I can't understand
25 the EPA. I'm -- I'm real confused on what -- what

1 you people are really trying to do. You look at
2 these people out here trying to make a living,
3 they have homes to pay for, they have cars to pay
4 for. I'm very sad for y'all today. And I would
5 like to put this on public records. Thank you.

6 (Applause)

7 MS. MacPHERSON: Thank you. Thank you.
8 Okay. Speaker number 17.

9 SPEAKER NO. 17: Thank you. My name is Joni,
10 J-o-n-i, Jenkins, J-e-n-k-i-n-s. And I represent
11 Kentucky House District 44 and the Kentucky
12 General Assembly. The 44th District is not a
13 coal-producing area. We have no underground or
14 strip mining. We have no mountains. However, in
15 my community there are two coal ash landfills and
16 two coal ash ponds. Some of my constituents live
17 with only a chain-link fence and an asphalt street
18 between their homes and an elevated pond. They
19 wonder what would happen if that pond should reach
20 its banks. Daily, fly ash flows from the towering
21 landfill and lands on their cars and their homes.
22 Fly ash lands on their children's toys and on
23 swing sets. Fly ash lands on their vegetable
24 gardens. So why do I care about mining regulation
25 issues? Because I know there is no my water

1 separate from your water. What's in your water is
2 in my water. (Applause).

3 When our state agencies fail to enforce
4 federal laws to safeguard our water, be it from
5 the coal mine or the coal ash dump, it impacts our
6 water and it impacts our health. I am here
7 tonight because, as a public official, I rely on
8 having the most truthful objective set of facts
9 before me as I make decisions that may affect
10 thousands of people for thousands of years. It is
11 a responsibility that I sought and one that I do
12 not take lightly.

13 I am here tonight because I fear the
14 Commonwealth of Kentucky seems ready to embark on
15 a course that will have implications not just for
16 the mining areas of the state, but for all of the
17 state. By refusing to comply with the EPA and the
18 Clean Water Act, we will disenfranchise the very
19 Agency charged with protecting us and our
20 environment. That's enabling business and
21 political interests to operate without regard to
22 the health and safety of our citizens. I thank
23 you for your time and the opportunity to speak.

24 (Applause)

25 MS. MacPHERSON: Thank you. Okay. Okay.

1 Speaker number 18.

2 SPEAKER NO. 18: My name is Jim Townsend,
3 T-o-w-n-s-e-n-d. I'm County Judge Executive of
4 Webster County, which is in western Kentucky. I'm
5 here tonight to ask the W -- the EPA: Why in this
6 world won't you allow both permits to pass and let
7 these people go back to work? In western
8 Kentucky, we're very fortunate, we have deep
9 mines, we have had strip mines in the past, but
10 all of our coal companies there have worked
11 diligently to make sure that their coal is clean
12 when it comes out of the -- out of the ground,
13 they clean it, and they also make sure that the --
14 as they ship the coal down the river, the river is
15 clean, too. We are affected in west Kentucky by
16 the fire producers that are in western Kentucky.

17 In our county, Webster, which joins Henderson
18 County, we have a coal -- a coal-fired plant that
19 is producing energy to keep re -- re -- I'll have
20 to let my Henderson County Judge pronounce that,
21 Rio Tinto [ph], which is an aluminum plant, as
22 well as an aluminum plant in Hopkin -- in Hancock
23 County, which are the two of the largest in the
24 world, and they need this energy that we are
25 producing in western Kentucky.

1 I feel like our streams are as clean as
2 anybody's anywhere in the United States. I also
3 feel that the mining industry in eastern Kentucky
4 is making every effort they can to keep the -- the
5 water safe for the people there.

6 I only have a short time left. I want to
7 thank you for being with us and -- and listening
8 to us. There are a number of other people left to
9 speak. And, again, thank you for coming to
10 Kentucky and appreciate anything you can do to
11 help us.

12 (Applause)

13 MS. MacPHERSON: Thank you. Thank you. I
14 just want, before number 19 goes, I -- with the
15 interpreters, is there anyone here who needs the
16 interpreter services? If you could stand up. And
17 if someone sees someone, point them out to me. I
18 don't see anyone. No. So I think we're -- I
19 don't want them to have to do this all night if
20 there's not a need. Okay. Great. Thank you.
21 Speaker number 19.

22 SPEAKER NO. 19: Yes, ma'am. Thank you and
23 thank you for letting me be here tonight. My name
24 is Hugh McCormick. I'm County Judge Executive
25 from Henderson County. My county is quite

1 dependent upon coal and the electricity that it
2 produces. Our hospitals, our schools, our rest
3 homes, our restaurants, everything about them are
4 dependent on coal. We sit here tonight in a room
5 with electricity, air conditioning, lights,
6 because somebody is burning coal somewhere
7 creating electricity. I've worked at Big Rivers
8 Electric in western Kentucky for 30 years. My job
9 at Big Rivers Electric was in the fluegas
10 desulfurization department, which other people
11 call the scrubbers.

12 As has been said, it's not about the water,
13 because every drop of water that comes on that
14 plant is retained on that plant site and is
15 treated on that plant site just like it is in the
16 surface mines across Kentucky. It's not about the
17 water. It's about the regulations and the rules
18 that you continue to put on the industries of
19 Kentucky that's driving these industries out of
20 business. They closed down a power plant in our
21 county that had -- couldn't -- couldn't meet the
22 EPA regulations. The turbines, the furnaces, the
23 boilers from them very power plants are being sold
24 in the third-world countries (Audience member
25 responds) sold in the third-world countries, the

1 furnaces. There is no regulations for them.
2 Every three days they open up another power plant
3 somewhere in the world and we continue to drive
4 our businesses out. (Audience member responds).
5 Somebody's got to step up, stand up for the
6 miners, the industries of this whole Commonwealth
7 and -- and let these people work. (Audience
8 member responds). Let's keep the lights burning.

9 My children used to always get upset when I
10 would have to go to work on Christmas morning.
11 They'd say, "Pop, please don't go. Just call in
12 sick." And I said, "Babe, I'm just like Tom
13 O'Dale [ph], we've got to keep the lights on for
14 you." Ladies and gentlemen, please let these
15 people keep the lights on for Kentucky. Thank
16 you.

17 (Applause)

18 MS. MacPHERSON: Thank you. Okay. Speaker
19 number 20.

20 SPEAKER NO. 20: Thank you. My name is David
21 Johnston. I'm -- J-o-h-n-s-t-o-n. I'm the Ohio
22 County Judge Executive. And that's in western
23 Kentucky. Coal produces the jobs for Ohio County
24 that keeps the quality of life there high. In
25 other words, it's the best paying jobs in the

1 county are the coal mining jobs. It -- it makes
2 up a great deal of our economy. It helps a lot of
3 families. But it also produces the money that it
4 takes to operate the county government, which
5 we're aware of every day. It produces one-third
6 of our revenue to operate the county government
7 on. And all of our revenue for things like police
8 cars, ambulances, building anything in the parks,
9 or anything other than day-to-day government, it's
10 paid for by the coal severance funds. And so that
11 means a lot to us. We don't want to pollute the
12 air, we don't want to pollute the water, but we do
13 want to save these jobs for the -- for the county
14 and for the state.

15 These regulations are oppressive and they're
16 hurting the coal industry. I would just ask the
17 EPA to look at it, if it's any way you can free up
18 those permits for the people of Kentucky, it would
19 be greatly appreciated.

20 If Kentucky is being persecuted because we're
21 not a battleground state, that would be bad, and I
22 hope that's not the case. But I will -- I will
23 close with a statement by Ohio County's number one
24 son, Mr. Bill Monroe, who said, "Thank God for
25 Kentucky and the whole USA."

1 (Applause)

2 MS. MacPHERSON: Thank you. Okay. Speaker
3 21.

4 SPEAKER NO. 21: Thank you very much. My
5 name is Rick Nelson. I represent the
6 coal-producing counties of Harlan County and Bell
7 County, which are in southeastern Kentucky.
8 Standing with me is Judge Joe Grieshop of Harlan
9 County, which is the state's number two coal
10 producer. I'm also proud to let you know, like I
11 did earlier, that my dad worked in the coal mines
12 for over 30 years to support his family. Today,
13 mainly due to the actions of the EPA and
14 Washington, DC, thousands of mines and mining
15 related jobs have been lost. The inability of
16 companies to get permits to mine new coal has
17 forced our citizens to go from drawing a paycheck
18 to the welfare rows. In addition, the closing of
19 many coal-fire power plants because of EPA
20 regulations will have disastrous results for
21 employment and will cause each and every one of us
22 to have a tremendous increase in our electrical --
23 electric bills.

24 Did you know what the number one pollutant of
25 streams is in Kentucky? According to the Division

1 of Water's own survey in 2007, it's not mining,
2 it's agricultural runoff impacting nearly 3,000
3 miles of streams. But guess what? They've not
4 closed a single farm down. I've not seen the EPA
5 or any of the protestors come. They're not
6 worried about that. They're worried about mining,
7 not their own back door.

8 And economic development (Audience member
9 responds) economic development is apparently in
10 the eye of the beholder. On Exit 87 on Interstate
11 75 and down at this first Frankfort exit, there
12 was some of the prettiest farm land that you ever
13 saw. But guess what happened? The bulldozers
14 came in and moved it all, and now there's shopping
15 centers and malls. Some people call that economic
16 development, except when we do it in the
17 coalfields, and then they call it bad. So what's
18 the difference? (Applause).

19 Finally, my message to the EPA, we really
20 need your help, so I say to you, "Set our miners
21 free so they can make a living for their families
22 and produce the energy for America. Set our
23 miners free." Thank you.

24 (Applause)

25 MS. MacPHERSON: Okay. Thank you. Speaker

1 22.

2 SPEAKER NO. 22: My name is Bill Bissett, and
3 I'm proud to be the president of the Kentucky Coal
4 Association. (Applause). I truly welcome these
5 hearings which afford EPA an opportunity to right
6 a terrible wrong done to Kentucky coal mining
7 industry, the miners and their families, and the
8 people of Kentucky who benefit so greatly from low
9 cost energy. The wrong occurred on April 1st,
10 2010 when EPA announced that new water quality
11 requirements, effective immediately, would apply
12 to the review of permits of new and expanded
13 activities -- surface mine activities in eastern
14 Kentucky.

15 The new requirements would replace procedures
16 the EPA had approved and the Commonwealth of
17 Kentucky had utilized for more than 20 years, and
18 as recently as two weeks prior to April 1st, 2010.
19 The new requirements were imposed in a dictatorial
20 fashion with no prior notice to the coal mining
21 industry that would allow the companies to adjust
22 their mining practice or the applications for
23 Clean Water -- Clean Water Act permits. The new
24 requirements were imposed with no prior notice to
25 the Commonwealth's Kentucky Division of Water,

1 that is charged by law with the duty to administer
2 the KPDES permit program.

3 The EPA's arrogant imposition of new
4 requirements, effective immediately, has had a
5 devastating effect on surface mining industry that
6 serves as a lifeblood of eastern Kentucky's
7 economy. For more than two years, not a single
8 individual KPDES permit for an eastern Kentucky
9 surface mine was approved by the EPA. That harm
10 inflicted by EPA on eastern Kentucky mining
11 industry, the jobs that it provides, the economy
12 that it supports, has been shamefully prolonged by
13 the EPA's failure to conduct the public hearings
14 mandated by the Clean Water Act to resolve these
15 issues. The Commonwealth of Kentucky requested
16 these hearings in December 2010, and the EPA has
17 only now, a year and a half later, responding to
18 the state's request.

19 In the meantime, mining projects have been
20 abandoned, jobs have been lost, and people and
21 communities have suffered without any effort by
22 the EPA to fulfill its legal responsibilities.
23 Now, at last, the EPA has an opportunity to right
24 the wrongs that it perpetuated on the most
25 vulnerable region of Kentucky when it applied new

1 requirements to be effective immediately. This
2 can be accomplished by withdrawing their
3 objections and allowing these projects to proceed
4 and to transition to compliance with any new
5 requirements over a reasonable period of time.

6 If the federal government is truly committed
7 to the welfare of its citizens who are desperate
8 for jobs, it can do no less. It is pastime for
9 the EPA to right this wrong. And thank everyone
10 who's pro coal for being here tonight.

11 (Applause)

12 MS. MacPHERSON: Okay. Thank you. At this
13 time, I'd like -- we're -- keep hearing from the
14 speakers, but the number blocks 31 to 40, if you
15 could go in the back room to get ready to speak.
16 31 to 40, are you out there? Yeah, go ahead and
17 go to the back corner to meet with the
18 facilitation staff. Okay. Number 23.

19 SPEAKER NO. 23: Good evening. I'm Barry
20 Racey, Director of Government and Public Relations
21 for AK Steel Corporation. We want to thank the
22 U.S. EPA for giving us the opportunity to comment
23 at this hearing. AK Steel is an integrated steel
24 maker that employs about 6,200 men and women in
25 Kentucky, Ohio, Pennsylvania, and Indiana. With

1 me is Mr. John Gruber. John is general manager of
2 AK Steel's Ashland Kentucky Works, which is
3 located in Northeast Kentucky near the heart of
4 the coalfields. Our company has a long proud
5 heritage in Kentucky. From the beginning, the
6 cost and availability of energy and coal have been
7 critical to the competitiveness of the Ashland
8 Works, and that's because steel making is an
9 energy intensive business. In fact, the Ashland
10 Works today uses about a quarter of a million
11 megawatt hours of electricity annually to power
12 the plant's processes and equipment, and that's
13 enough energy to power about 35,000 homes.
14 Additionally, the Ashland Works consumes more than
15 200,000 tons of Kentucky coal annually in our
16 blast furnace operation.

17 We constantly seek ways to be more energy
18 efficient. In fact, since 1990, the steel
19 industry has reduced the amount of energy required
20 to produce one ton of steel by about 27 percent.
21 We believe that's real progress. We're proud of
22 the more than 900 men and women of the Ashland
23 Works and thousands of retirees before who are
24 making efforts every day to compete in challenging
25 markets. That said, increases and the cost of

1 electricity can make the Ashland Works less
2 competitive, and the Ashland Works must continue
3 to have access to readily available high quality
4 competitively priced coal.

5 In its August 2011 final plan for improving
6 regulations, EPA stated that "Executive Order
7 13563 is an opportunity to take a fresh look at
8 the Agency's approach and determine, quote, 'how
9 EPA can improve collaborations with our partners,
10 such as state, local, and tribal governments,'"
11 end quote.

12 With that in mind, we urge EPA to work with
13 the Kentucky Cabinet to resolve these important
14 issues in a manner which will not only protect the
15 environment, but also promote competitiveness and
16 job creation. Thank you for considering our
17 comments.

18 (Applause)

19 MS. MacPHERSON: Thank you. Okay. Speaker
20 24.

21 SPEAKER NO. 24: My name is Dan Geiger,
22 G-e-i-g-e-r. I am a registered professional
23 mining engineer, the retired CEO of Lexington Coal
24 Company, and currently a mining consultant. I am
25 concerned that the current final guidance from EPA

1 appears to be driven by political issues, but not
2 good public policy. The final guidance lowered
3 the conductivity limit to 300 microsiemens, but
4 curiously limited its application to only West
5 Virginia and eastern Kentucky. Ohio,
6 Pennsylvania, Virginia, and Tennessee were
7 exempted from the new discharge limits.

8 The disturbance of the earth's surface for
9 any purpose exposes soil and rock to leaching,
10 which raises conductivity. All forms of mining in
11 all states, as well as highway construction,
12 farming and other earth disturbing activities
13 result in increased stream conductivity. EPA
14 Administrator Lisa Jackson acknowledged that few,
15 if any, mining valley fills could comply with the
16 new limit.

17 Why were the other Central Appalachian states
18 allowed to continue to discharge with no
19 conductivity limit? The obvious answer is the
20 upcoming presidential election. Kentucky and West
21 Virginia are small states which voted against the
22 President in 2008, and are expected to vote
23 against him again in 2012. Mining jobs in these
24 two states can be sacrificed to win support from
25 environmental groups. Ohio, Pennsylvania,

1 Virginia, and Tennessee are much larger swing
2 states, with substantial electoral college votes
3 which are critical to the President's re-election.

4 If conductivity above 300 is unacceptable,
5 why has the standard not been applied in all
6 states for all earth disturbing activities, such
7 as agriculture and highway construction. The
8 answer is that there would be a nationwide
9 shutdown in farming and development of all kinds.
10 What the EPA is doing in Kentucky and West
11 Virginia is not good science. It's political
12 science. Thank you.

13 (Applause)

14 MS. MacPHERSON: Thank you. Thank you.
15 Could I ask those people in the back, if you're
16 not getting prepared to speak and having
17 conversations, that you take them outside the
18 hearing area so other people can -- can hear the
19 comments inside. Also, if you did register
20 on-line to speak, I just want to remind you, you
21 do need to get a number, so see the people out at
22 the registration table if you haven't done so.
23 Thank you. Okay. Speaker 25.

24 SPEAKER NO. 25: Good evening. My name is
25 Monty Boyd. I live in Louisville, Kentucky, and

1 am the owner of Whayne Supply and Walker
2 Machinery, the Caterpillar mining construction
3 equipment distributors in Kentucky, southern
4 Indiana, West Virginia, and southeastern Ohio.
5 These two companies employ over 2,000 men and
6 women working out of 25 store locations. Over 60
7 percent of our revenues are generated from the
8 sale of machines, parts, and service to the coal
9 industry. So the coal industry supports all of
10 our employees and their families in four states.

11 Next year, Whayne Supply will celebrate 100
12 years of service to our customers. At a time when
13 I should be excited about our future, I am full of
14 concern and uncertainty because our future is
15 bleak because of the regulatory ambush on the coal
16 industry by the EPA. (Audience member responds).

17 Changing the permitting requirements in April
18 of 2010 has effectively strangled this industry to
19 a breaking point. Why did you only target six
20 states, then reduce it to just Kentucky and West
21 Virginia? Is this an environmental or a political
22 issue? Why are you guided -- are your guidelines
23 only directed to the coal industry? Why do
24 dissolved solids and conductivity from coal mining
25 affect aquatic systems more than other activities

1 that displace or disturb soil? Or is this just
2 the EPA's preview to stop all mining, construction
3 and agriculture, all of which disturb soil and
4 will not meet your conductivity guidelines? Why
5 is the rest of the world growing their coal,
6 generating electricity capacity at record levels
7 while we're shutting down ours at a record rate?
8 Because Kentucky and West Virginia are under
9 attack by the unfair and questionable governance
10 of the EPA, causing massive employee layoffs, mine
11 shutdowns, downsizing, and company closures.

12 I strongly encourage the EPA to withdraw its
13 objections to these 36 permits, all of which are
14 with companies in which we do business, and allow
15 hard-working Americans to regain their lost
16 opportunities and allow a valuable natural
17 resource, which is critical to our nation's energy
18 requirements, important to our world
19 competitiveness, vital to our national security,
20 and is the economic lifeblood of thousands of
21 Kentuckians and West Virginians and 2,000
22 employees of Wayne Supply and Walker Machinery.
23 Thank you for your attention.

24 (Applause)

25 MS. MacPHERSON: Thank you. Thank you.

1 Speaker 26.

2 SPEAKER NO. 26: I'm 26. Rick Clewett,
3 C-l-e-w-e-t-t. I'm a volunteer with the Sierra
4 Club. (Audience members respond).

5 MS. MacPHERSON: Now, just one second.
6 Please (Applause) show courtesy to all speakers.
7 Thank you.

8 SPEAKER NO. 26: I've done extensive water
9 testing downstream with surface mines in eastern
10 Kentucky and have seen first-hand the water
11 quality damage that surface mines can do. For
12 over some months ago, I took two stream biologists
13 from the University of Maryland in Baltimore to
14 three streams which will be ruined by four of
15 these 36 permits. I specified the permits and the
16 streams in my written comments.

17 To summarize part of Dr. Chris Swan's lab
18 report, the first part dealt with conductivity,
19 which has been much mentioned here, it was high in
20 all streams. They had been -- there had been
21 surface mining above these streams. Dr. Swan
22 eliminated other sources of conductivity because
23 there was no agricultural activity in the area and
24 there had been no deicing on roads in months. He
25 also tested for heavy metals and he -- they -- he

1 and his colleague did studies of the
2 macroinvertebrates, the little critters in the
3 streams, to assess comprehensively the stream
4 health. "The macroinvertebrate communities in all
5 three sites were taxonomically poor and the
6 MB [ph] ice forest calculated per Kentucky
7 protocol placed each site in poor to very poor
8 category," end quote.

9 Because Kentucky DOW had not done its work,
10 it did not know of these conditions, they were
11 prepared to grant mining permits that would have
12 damaged these streams even further. EPA must
13 stand its ground and maintain its objection to
14 these permits. And Kentucky DOW must protect the
15 water of the state. That means that Governor
16 Beshear and those in the Cabinet of Energy and
17 Environment, who give DOW its marching orders and
18 its funding, must do what it takes to require and
19 enable DOW to do what the law requires it to do.
20 Thank you.

21 (Applause)

22 MS. MacPHERSON: Thank you. Thank you.
23 Okay. Speaker 27.

24 SPEAKER NO. 27: My name is Joe Evans. I'm
25 president of Leeco and Blue Diamond Coal Company

1 (Applause) representing Leeco and Blue Diamond.
2 We have three permits that are being challenged by
3 the EPA. I want everyone to know that these
4 plants have not been shutdown. They're up for
5 renewal. There have been no new hollow fills, no
6 new streams, instream ponds, and no new discharge
7 points, and yet we find ourself at risk of not
8 being able to get necessary permits to sustain our
9 livelihood. (Audience member responds). Being
10 that these plants are in existence, I have some
11 actual financial data I'd like to share.

12 Leeco and Blue Diamond currently works 600
13 employees in Perry, Knott, Leslie, and Letcher
14 counties. 2011 annual wages are \$33 1/2 million.
15 The severance taxes paid to the state was \$11
16 million. County taxes paid to the counties
17 mentioned above was \$800,000. Leeco and Blue
18 Diamond paid American Electric Power \$7 million
19 for utilities in 2011. They have since announced
20 that they will convert to natural gas. This is
21 due to other EPA policies that we also disagree
22 with but are not talking about here tonight.

23 What I ask you is: What do I tell these 600
24 hard-working employees that look to us to help
25 support their families if they lose their job? We

1 wish for you to understand that we are the
2 factories of eastern Kentucky. Even though you
3 cannot see us, we play a huge role in the economy.
4 We are the very reason that Ford makes trucks in
5 Louisville, Toyota makes cars in Georgetown, and
6 Chevrolet makes Corvettes in Bowling Green. These
7 carmakers are here because of inexpensive energy.

8 Total money spent at Leeco and Blue Diamond
9 for labor, goods, and services in 2011, mostly to
10 Kentucky vendors, was \$152 million. Average
11 mining wages of \$60,000 per year. I want you to
12 know the community depends on our well-being.

13 Please understand the direct effect of these
14 policies have on eastern Kentucky is devastating.
15 Economic hardships imposed by over regulations are
16 real and we think unfair and unwarranted. We
17 appreciate your consideration in this matter and
18 we trust our government will treat us as the proud
19 citizens we wish to be. Thank you and God bless
20 America.

21 (Applause)

22 MS. MacPHERSON: Thank you. Speaker 28.

23 SPEAKER NO. 28: My name is Betsy Bennett.
24 I'm from Louisville, Kentucky. And my comments
25 are submitted on behalf of the water committee of

1 the Cumberland Chapter of Sierra Club, an
2 organization with some 5,000 members across the
3 Commonwealth of Kentucky. In a year when many of
4 us are celebrating the 40th anniversary of the
5 passage of the Clean Water Act and all the
6 progress that has been achieved under its
7 mandates, it is ironic that we are here tonight
8 defending the actions of the Agency that was
9 specifically created to restore and maintain the
10 chemical, physical, and biological integrity of
11 the nation's waters. We are fortunate that the
12 Environmental Protection Agency has stepped in to
13 protect our water quality and our public health
14 when our own state government has systematically
15 failed in that regard.

16 EPA issued a 2010 surface mining guidance
17 recommending that the state add a chronic
18 conductivity limit in discharge permits, and the
19 state has chosen to ignore that guidance. While
20 Kentucky is a delegated state with the authority
21 to issue its own water discharge permits, EPA
22 retains the power to object to those permits, and
23 it has now done so in the case of 36. Our own
24 Division of Water has failed to conduct a complete
25 analysis of whether the proposed discharges from

1 those mining operations have reasonable potential
2 to cause or contribute to a violation of
3 Kentucky's water standards as required by the
4 Clean Water Act. The health of Kentuckians who
5 live near surface mining operations is at
6 significant risk today.

7 We urge the EPA to continue their efforts to
8 protect public health and the environment when the
9 powerful coal lobby and our own political leaders
10 refuse to do so. If the Commonwealth of Kentucky
11 persists in this way, we recommend that the Agency
12 take the next step and withdraw the Commonwealth's
13 delegated authority to implement the state's KPDES
14 program in accordance with federal law. Thank you
15 for the opportunity to comment.

16 (Applause)

17 MS. MacPHERSON: Thank you. Thank you.
18 Thank you. Okay. Speaker 29.

19 SPEAKER NO. 29: My name -- my name is --
20 (Audience members respond).

21 MS. MacPHERSON: Excuse me. Excuse me.
22 Remember, courtesy to all speakers. We want
23 everyone to have an opportunity to comment.

24 SPEAKER NO. 29: My name is Lane Boldman,
25 B-o-l-d-m-a-n. I represent the mining committee

1 for the Cumberland Chapter of the Sierra Club,
2 representing 5,000 members in the Commonwealth of
3 Kentucky. We wish to comment that we support the
4 EPA's concerns with the 36 mining permits
5 presently at issue. We believe the Kentucky
6 Division of Water has not provided sufficient
7 oversight downstream -- of downstream water
8 quality related to surface mining. We are asking
9 the EPA to reaffirm its objections to all 36
10 permits.

11 The state's inadequate oversight of the coal
12 industry has had a long history with notable
13 events such as the Martin County disaster which
14 polluted hundreds of miles of the Big Sandy River,
15 contaminating water supplies for over 27,000
16 residents, and more recent years, revelations that
17 mine sites in Knott County had thousands of
18 violations and pollution discharge limits before
19 they were discovered in 2010. The state has been
20 ignoring the concerns of its citizens and the
21 quality of its water for years. And the coal
22 companies clearly have shown that they are unable
23 to regulate this.

24 Our national organization will be sending
25 technical comments and those will be sent

1 separately. But I want to say, I personally have
2 explored many waterways within the mining
3 communities of eastern Kentucky and have grave
4 concerns about the water quality throughout the
5 region. I have witnessed cloudy streams, rusty
6 streams, streams that lack any visible signs of
7 aquatic life around mining operations. We have
8 members who live in mining communities and
9 complain of contaminated wells and streams. I
10 have witnessed lakes in the region that are
11 becoming filled with silt coming off of surface
12 mines. Protecting water quality is an issue of
13 tremendous concern to our members in Kentucky. We
14 have many members who regularly participate in
15 monitoring waterways throughout the state,
16 regularly participate in projects to restore lands
17 where mining has occurred with tree plantings.

18 And facts are clear, studies have shown time
19 and again the communities around mountaintop
20 mining sites have significantly higher rates of
21 mortality. The Beshear Administration is well
22 aware of the impacts to the citizens of eastern
23 Kentucky. People from the coalfields have come to
24 his office for sit-ins for over a year, asking the
25 state to step up and protect their communities

1 from mining pollution.

2 The EPA must hold the line and affirm its
3 objections to the 36 permits that do not comply
4 with the Clean Water Act. (Audience member
5 responds). Thank you.

6 (Applause)

7 MS. MacPHERSON: Thank you. Thank you.
8 Okay. Speaker number 30.

9 SPEAKER NO. 30: My name is Thomas Pearce,
10 and I'm here representing the Sierra Club, the
11 Beyond Call campaign. I also am a member, a proud
12 member of Kentuckians for the Commonwealth. And
13 I'm also -- want to say that I represent the
14 American Indian Movement, and I'm going to tell
15 you why. The first thing I'd like to reiterate is
16 what another speaker said a little while ago.
17 Everybody's talking about acting like this has
18 just come down. The Clean Water Act just
19 celebrated its 40th anniversary, as we know.

20 I just returned from visiting family in White
21 Earth, Minnesota, where we enjoyed a nice northern
22 fish dinner from our -- what's left of the
23 pristine lakes in Minnesota. And I sat there
24 eating that fish and I -- I started thinking about
25 how long it had been since I had eaten a fish from

1 the State of Kentucky, that I could actually eat
2 and not worry about getting poisoned with mercury
3 or selenium, chromium, or arsonic. (Applause). I
4 thought about how -- how lucky they were to be
5 able to harvest wild rice from the rivers. That's
6 just not something we're ever going to be able to
7 do in Kentucky again, unless you continue to
8 reaffirm these decisions.

9 I also want to say that -- that our
10 Appalachian mountains are the oldest mountain
11 range in the world. And the streams and rivers
12 that run through it are very old as well. And to
13 me they're sacred. They're not to -- they're not
14 expendable. I'm sorry that a lot of people think
15 they are.

16 And I'm -- and I have nothing against people
17 who have jobs in coal. My family from Sebree,
18 Kentucky, western Kentucky, there's not much left
19 in Sebree but a big power plant and a graveyard.
20 That's -- that's what's left in my family's home.
21 And I would like a future for my family to -- a
22 family that would live and have family living
23 in -- in Sebree, Kentucky. But wherever coal
24 goes, there's nothing left. (Audience members
25 respond). So please reaffirm your decisions.

1 (Applause)

2 MS. MacPHERSON: Thank you. Thank you.

3 Okay. At this time, if I could have groups --
4 numbers 41 to 50, go in the back, please, in the
5 back left area, the man waving his hand, to get
6 ready to speak. Speaker 31.

7 SPEAKER NO. 31: My name is Sam Avery. I'm
8 with Kentuckians for the Commonwealth and 350
9 Louisville. (Applause). Coal does not create
10 jobs. Investment creates jobs. If the money now
11 invested in coal were invested in renewable
12 energy, we would have the energy and the jobs we
13 need, and we would not have to destroy the land,
14 the air, and the water to get them. (Applause).
15 So why do we invest in coal? To provide jobs? I
16 don't think so. We invest in coal because the
17 return is better. (Audience member responds). We
18 make more money with coal because clean water is
19 free. Clean air is free. Children with asthma
20 are free. Mercury in streams and lakes is free.
21 Blown mountaintops and overcarbonated atmosphere
22 are free. We don't have to pay for these things.
23 We can make more money turning air brown and
24 turning sewers into waterways because it doesn't
25 cost us anything.

1 Now, I know about energy investment because I
2 am a solar installer. I buy solar panels
3 manufactured here in Kentucky, and I hire people
4 to put them on buildings. (Audience members
5 respond. Applause). I know from experience that
6 if government business and private individuals
7 were to invest in solar and other renewable
8 energy, we can have the energy and the jobs we
9 need without mining, without burning, and without
10 polluting anything. (Audience member responds).
11 This is where we need to invest.

12 We all need jobs, but we don't need jobs that
13 hurt people and destroy the land we stand on.
14 Solar energy is cheaper than coal, a lot cheaper,
15 when investors have to pay for the damage they do.
16 (Audience members respond). Let the EPA do its
17 work, protecting our land and our water. Thank
18 you.

19 (Applause)

20 MS. MacPHERSON: Thank you. Okay. Speaker

21 32.

22 SPEAKER NO. 32: I'm Mark Steiner,
23 S-t-e-i-n-e-r, and I represent Kentucky Interfaith
24 Power & Light. And I speak tonight as a friend, a
25 friend of the Commonwealth, a friend of her

1 precious natural resources, a friend of her
2 citizens, including those yet to be born, and as a
3 friend of her waterways on which my life and all
4 life within her bountiful borders is dependent.
5 As I understand it, it is amongst our highest
6 callings to protect earth resources, to protect
7 God's creation for future generations. This
8 particularly includes the soil, air, and water.
9 Water that when it is present, plentiful and pure
10 is life-giving.

11 What does it say about us and our future when
12 it is no longer safe for our children to drink
13 from our wells? What does it say about us and our
14 future when our streams are literally vanishing?
15 What does it say about us and our future when we
16 are asked to choose between jobs and clean water?
17 A choice, I believe, is false. Clearly, something
18 has gone terribly awry. We have failed each other
19 and we have failed generations of children to
20 come. There is no short-term economic gains that
21 justify the desecration of earth's life-giving
22 natural resources. We do not have the right to
23 take away the health and vitality of future
24 generations. Simply put, you cannot have healthy
25 humans in an unhealthy ecosystem. And every child

1 deserves a chance for a healthy future.

2 I am deeply concerned that those responsible
3 for protecting the natural resources of our
4 beloved Commonwealth have failed us. Now, more
5 than ever, our children, grandchildren, and
6 children yet to come along, along with the
7 waterways of Kentucky, needs friends. I am proud
8 to be one of those friends and to speak out in
9 support of the EPA's (Audience member responds)
10 efforts to enforce clean water standards.
11 (Audience members respond). Thank you.

12 (Applause)

13 MS. MacPHERSON: Thank you. Thank you.
14 Thank you. Okay. Speaker 33.

15 SPEAKER NO. 33: I am Joan Lindop,
16 L-i-n-d-o-p. I'm speaking for the mothers and
17 grandmothers who want clean water for their
18 families. Kentucky already has thousands of miles
19 of polluted streams and this is degrading the
20 health of thousands of our Kentucky citizens every
21 day. The coal companies know how to write permits
22 that meet EPA guidelines. They are choosing not
23 to do that. Mining destruction is forever. I
24 have seen reclaimed sites, and they are
25 grasslands. Maybe elk like it, but it isn't the

1 div -- biodiverse forest that Kentuckians have
2 loved and respected. A quarterly profit isn't
3 worth losing what the coal companies call
4 overburden. Support the EPA.

5 (Applause)

6 MS. MacPHERSON: Thank you. Thank you.
7 Okay. Speaker 34.

8 SPEAKER NO. 34: I'm Wallace McMullen,
9 W-a-l-l-a-c-e, McMullen, M-c-M-u-l-l-e-n. And I'm
10 the Energy Chair of the Cumberland Chapter of the
11 Sierra Club. Coal mining pollution poses serious
12 problems to our mountain headwater streams. Your
13 objection letters blocking 36 permits are
14 protecting Kentucky communities and their sources
15 of water from the destructive mining practices
16 that include filling those streams with mining
17 waste to get at coal. Kentucky's agencies are not
18 fulfilling their obligations under the Clean Water
19 Act to safeguard our mountain streams and
20 communities from destructive surface mining
21 practices and the devastating impacts as wanton
22 practices can have. (Audience members respond).

23 Kentucky's regulatory agencies are regularly
24 ignoring strong scientific data showing that
25 pollution from surface coal mining operations harm

1 downstream water quality. The State of Kentucky
2 will be reviewing their coal general permits --

3 MS. MacPHERSON: Excuse me. Sorry. Could
4 you just stop one -- could I -- people, please, if
5 you're going to have conversations, please take
6 them outside of the hearing area. (Audience
7 member responds). So just -- (Audience members
8 respond). Okay. I appreciate everyone's courtesy
9 to the other speakers. Okay. Go ahead. I'm
10 sorry.

11 SPEAKER NO. 34: The State of Kentucky will
12 be reviewing their coal general permit in 2014.
13 And the EPA's ruling in this case will have direct
14 implications for improving the general permit.
15 EPA must hold firm. This is not an issue with a
16 middle ground. Federal law requires the State of
17 Kentucky to adhere to the water quality standards
18 developed in accordance with the Clean Water Act
19 and requires it to utilize those standards
20 effectively to protect the state's waterways. EPA
21 must ensure the state has, in fact, maintained
22 sufficient water quality standards, to actually
23 protect Kentucky's waterways as is required by
24 federal law, for the state to legally implement
25 the NPDES permit program and the 401 water quality

1 certification program. The EPA must ensure that
2 the Division of Waters is actually -- actually
3 implementing the necessary limits for metals,
4 salinity, and other critical water standards. The
5 science supports taking a strong stand, and I'll
6 give you a written statement with -- documenting
7 that.

8 In conclusion, I support the EPA's authority
9 to enforce the Clean Water Act and the provisions
10 of the Act to protect water quality, the
11 environment, and human health. I urge you to
12 defend our waters by reaffirming your objections
13 on all of the 36 discharge permits in question
14 despite the industry and political pressures.
15 Thank you. (Audience members respond).

16 (Applause)

17 MS. MacPHERSON: Thank you. Thank you.
18 Okay. Speaker 35.

19 SPEAKER NO. 35: My name is Don Gibson, and
20 I'm representing Arch Coal subsidiary (Applause)
21 ICG Hazard. I'm here to speak on permit number
22 8970448, which is one of the -- the permits on the
23 list of 36, which is being unduly withheld. The
24 application for this permit was submitted in
25 August of 2009 as a new and expanded discharge and

1 later combined to incorporate a renewal of the
2 original permit, which was issued in May of 2007.

3 On October of 2010, the EPA filed specific
4 objection to the permit, noting a lack of adequate
5 RPA and lack of appro -- appropriate effluent
6 limitations. In 2010, December of 2010, all
7 required information was submitted, and we
8 received notification that, from Division of
9 Water, that that information had been accepted.
10 To date, no action has been taken. Now, it's
11 almost three years later and we're still waiting.
12 What makes this a little strange, is this is not a
13 major mountaintop removal permit, this is an
14 amendment to add 37 acres in the -- in the Middle
15 Fork watershed.

16 The Middle Fork watershed has no municipal
17 sewers whatsoever. There is mass raw sewage
18 emptying into the Middle Fork, and you're
19 concerned about 37 acres and two bench ponds.
20 This is not without science. We have done a
21 cumulative impact assessment that cost nearly \$1
22 million and the property belongs to us.

23 This issuance of the permit is important, but
24 it's secondary to what's happening in this
25 industry with this Administration. It's obvious

1 that the current Administration is waging war and
2 is allowing the EPA free rein to govern our people
3 in our industry through policy and not through
4 laws enacted by Congress. The things that made
5 this country great have all been taken away. We
6 can no longer mine, we can no longer farm, we can
7 no longer build. This is unconstitutional, and
8 we're here today to lift our voices.

9 I know the time's up. Give me just a second.
10 (Audience member responds). As Arch Coal, we are
11 more than 800 strong here tonight. You have seen
12 a mass exodus here (Applause) because we've got
13 people riding buses for three hours to get back
14 home so they can work tomorrow. This is symbolic
15 of what's going to happen to eastern Kentucky
16 (Audience member responds) when coal dies and
17 we're gone. I just want to say (Audience members
18 respond).

19 MS. MacPHERSON: Thank you. Thank you very
20 much.

21 SPEAKER NO. 35: Okay.

22 MS. MacPHERSON: And please submit (Applause)
23 if you do not have a chance to finish your
24 statements, please submit them at the registration
25 table and they will be made part of the

1 administrative record. Thank you. Speaker number
2 36.

3 SPEAKER NO. 36: Thank you. My name is Chad
4 Harpole, H-a-r-p-o-l-e, and I'm Director of Public
5 Affairs for the Kentucky Chamber of Commerce.
6 Kentucky Chamber of Commerce is the state's
7 largest business trade association representing
8 over 2,700 members across the state, and our
9 members employ over half of Kentucky's workforce,
10 many of which were here and are here today. We
11 are greatly concerned that the EPA's actions
12 regarding Clean Water Act permits for new and
13 expanded mining activities in Kentucky have a
14 negative effect on Kentucky's business climate and
15 jeopardize our economic future. We are concerned
16 over EPA's new water quality requirements on coal
17 mining activities, through the issuance of
18 guidance documents, rather than a notice and
19 comment rulemaking, which is mandated under
20 federal law. As a result of EPA's failure to
21 follow appropriate legal procedures, the Agency
22 has been forced to make significant revisions to
23 its guidance documents and has acquired additional
24 information.

25 Meanwhile, Kentucky's coal mining industry

1 has been thrown into turmoil by EPA's objection to
2 KPDES permits issued by the Kentucky Division of
3 Water, containing the same provisions that have
4 been previously approved by EPA. EPA's
5 administrative oversight on the issue poses
6 serious threat to our economy. The effect of
7 EPA's permit objections in September of 2011 alone
8 could eliminate 3,800 coal jobs and eliminate more
9 than \$123 million in potential coal severance
10 dollars paid to our state. EPA's earlier permit
11 objections prior to September of 2011 should be
12 expected to have a similar impact.

13 Although the direct effects of EPA's
14 anti-coal policies on Kentucky's economy are
15 staggering, perhaps the greatest threat is posed
16 by the increase in energy costs that will
17 inevitably follow curtailment of additional coal
18 production in the state. We strongly urge EPA to
19 withdraw its pending objections to the permits and
20 work in a cooperative manner with the Kentucky
21 Division of Water to develop regulatory
22 requirements that allow the mining of coal to
23 continue in Kentucky. Thank you.

24 (Applause)

25 MS. MacPHERSON: Thank you. Okay. Speaker

1 37.

2 SPEAKER NO. 37: Thank you. My name is David
3 Gooch, G-o-o-c-h. I am the president of Coal
4 Operators and Associates of Pike County, Kentucky,
5 the number one coal-producing county in the state.
6 (Applause). We're here tonight to speak on behalf
7 of the majority of those operators that are
8 affected by EPA's decision to persecute and
9 crucify the coal miners and the citizens and the
10 economy of eastern Kentucky. EPA has chosen to
11 regulate by policy, in violation of the
12 Administrative Procedures Act. You have regulated
13 by guideline instead of by regulations that are
14 adopted in accordance with public comment and
15 judicial review. EPA has made decisions by
16 delaying.

17 EPA, again, in bad faith, waited 18 months to
18 grant the hearings requested by the Kentucky
19 Division -- Department of Environmental
20 Protection. This extraordinarily long delay
21 amounts to a death by crucifixion for many of the
22 operations impacted by the Agency's decision to
23 not make a decision. EPA has negotiated a bad
24 faith with the Commonwealth. Kentucky's DEP
25 negotiated with the EPA in Region 4 regarding

1 permit issuances. Again, EPA Washington
2 negotiated in bad faith. The Agency led Kentucky
3 to believe that an agreement was at hand, only to
4 kill the discussions at the last minute.

5 You won't hear, in fact, you've only heard
6 from two operators here tonight that are impacted
7 by these permit decisions that you are making.
8 The reason is, is the EPA and other federal
9 agencies have taught us a word that we very well
10 understand in eastern Kentucky. It's called
11 retribution, those who have used their
12 constitutional right and stand up and speak out
13 against the federal government. Why end up with
14 the jackboot [ph] of the federal government on
15 your neck?

16 EPA has chose Kentucky operators as examples.
17 I guess maybe it's the way we all voted at the
18 last presidential election. And I'll guarantee
19 you one thing, there will be more votes like it
20 come November. (Applause). I will say one thing,
21 Mr. Giattina, and Mr. Thomas, nobody's angry with
22 you all. It's your boss. That's who needs to go.

23 (Applause)

24 MS. MacPHERSON: Thank you. Thank you.
25 Okay. At this time, could the next set of

1 speakers, 81 to 100; is that right, Christie? 81
2 to 100, please go to the back, my left, and get
3 prepared. So number 38; right?

4 SPEAKER NO. 38: Thank you.

5 MS. MacPHERSON: Yeah. I just want to make
6 sure I keep it in order.

7 SPEAKER NO. 38: Thank you very much. My
8 name is Andy Barr. I'm the Republican nominee for
9 Congress (Applause) in Kentucky's 6th
10 Congressional District. (Applause). I'm also an
11 attorney with a law firm that represents coal
12 operators and also the hundreds of employees of
13 those coal companies that they employ. And I'm
14 also a part-time instructor of administrative law.
15 As an instructor of administrative law at Morehead
16 State University, I'm concerned about the EPA's
17 noncompliance with the Administrative Procedures
18 Act.

19 As an attorney, obviously, I'm concerned
20 about my clients and the hundreds of miners that
21 they employ. And as a citizen and as a candidate
22 for U.S. Congress, I'm especially concerned about
23 these human beings whose lives and their futures
24 and their livelihoods that are being jeopardized
25 by the actions of the EPA. So, tonight, I rise to

1 express my serious concerns about the EPA's
2 objections to new and expanding mining activities
3 in Kentucky.

4 The comments that we have heard here tonight
5 about these mining permits provide the best proof
6 yet that the Obama Administration is, indeed,
7 waging a war on Kentucky's working families. They
8 know, the Obama Administration knows, or at least
9 they ought to know, that coal puts food on the
10 lay -- on the tables of many in this state. They
11 know, or at least they ought to know, that coal
12 employs over 23,000 people in this state and
13 provides three additional jobs for every miner
14 employed. They know, or at least they ought to
15 know, that coal provides low cost electricity for
16 manufacturers like Toyota, which provides nearly
17 7,000 jobs right next door in Scott County.

18 So, at this time, in our nation's history, in
19 the 40th consecutive month of unemployment higher
20 than 8 percent with one in two recent college
21 graduates either unemployed or underemployed, when
22 we face a jobs crisis worse than anything we've
23 seen since the Great Depression, it is absolutely
24 unconscionable that this administration would be
25 actively working to kill jobs and deny the

1 American people access to affordable and reliable
2 energy.

3 And, regrettably, the EPA and this
4 Administration are not the only problem.
5 Kentuckians expect their elected representatives
6 to fight every single day to stop this
7 administration's war on coal. And most troubling
8 of all, in these difficult times this EPA and this
9 President, to enable them, are treating these
10 people as if they are the problem, when they are
11 the solution. Thank you very much.

12 (Applause)

13 MS. MacPHERSON: Okay. Thank you. Thank
14 you. Okay. Next speaker, number 39.

15 SPEAKER NO. 39: My name is Nina McCoy, and
16 I'm from Inez, Kentucky. I am here not to
17 represent any group. If I had about two hours, I
18 could spend a lot of time explaining our struggles
19 with the previous EPA, who said that 300 million
20 gallons of toxic coal sludge was fine for us to
21 drink. But since I have two minutes, I've decided
22 to give it to God. And a lot of people hate it
23 when I do that, even on my side, because those
24 people think that this book (indicating) has been
25 used to keep people down. But this book

1 (indicating) instead has so many examples. Every
2 one of these is an example, a warning of what
3 happens when the powerful and the rich try to keep
4 people down. So I'm here -- I have no quarrel
5 with any working man or any working woman. I am
6 here to fight the rich and powerful.

7 First, to the coal companies. This is from
8 Ezekiel 17:18 [sic], "Is it not enough for you to
9 feed on the good pasture, but you must tread down
10 with your feet the rest of the pasture? When you
11 drink of the clear water, must you foul the rest
12 with your feet? And must my sheep eat what you
13 have trodden with your feet, and drink what you
14 have fouled with your feet?"

15 And now for their bully friends of coal.
16 "Because you pushed with flank and shoulder, and
17 butted at all the weak animals with your horns
18 until you scattered them far and wide," our
19 eastern Kentucky people are gone. "I will save my
20 flock, and it will no longer be ravaged, and I
21 will judge between the sheep and the sheep."

22 And now for our elected officials. In Micah,
23 "The official and the judge ask for a bribe; and
24 the powerful dictate what they desire. Thus they
25 pervert justice."

1 For our governor who has invited you here to
2 make you stop regulating our water, "My brothers
3 and sisters, do you act with acts of favoritism,
4 really believe in our glorious Lord Jesus Christ,
5 and if a person with gold rings and fine clothes
6 comes into your assembly, and a poor person in
7 dirty clothes comes in," if you invite Don
8 Blankenship to your -- to your --

9 MS. MacPHERSON: Thank you. Yeah, I'm sorry.
10 Again, if you've got additional comments, we'd
11 love to get them in writing out front.
12 (Applause). Thank you.

13 As you can see, we still have quite a few
14 people who want to speak and we want to make sure
15 they get that opportunity. So speaker number 40.

16 SPEAKER NO. 40: My name is Jim Dugan,
17 D-u-g-a-n. I'm a private citizen here to
18 represent the people on fixed income. EPA is
19 placing a heavy burden on people on a fixed
20 income. We've been loaded down with costly
21 regulations. This is death by a thousand cuts.
22 We're looking at a huge increase in the cost of
23 electricity due to shutting down of coal-fired
24 plants. PMJ Interconnect, which controls the grid
25 for 13 of our states, the recent auction came in

1 at eight times our current rate. How are we going
2 to pay for that?

3 Mr. Karl Spalding, your regional
4 representative for the EPA, whom I call the
5 environmentalist punishing America, stated that
6 your actions will destroy communities that depend
7 on coal. This is one of your -- one of your
8 people. Do you know how many communities will be
9 destroyed? Do you know how many states will have
10 their economies destroyed? How many of us -- many
11 of us wrote to you when you supposedly had
12 listening sessions on costly and overly burdensome
13 regulations. Did you pay any attention? Did you
14 make any changes? Is this just a forest here?
15 This country was founded on a separation of powers
16 because our forefathers experienced the tyranny of
17 centralized power. Somehow you ended up having
18 the power to make regulations, to enforce the
19 regulations, and to judge who's not in -- not
20 compliance with your regulations. King George
21 would be proud.

22 (Applause)

23 MS. MacPHERSON: Thank you. Okay. Speaker
24 41.

25 PUBLIC SPEAKER: My name is Matt Wasson with

1 Appalachian Voices. We represent several thousand
2 members across the Appalachian region. I'm going
3 to speak about a, first, about a lawsuit that my
4 organization and several others in the group were
5 engaged in to illustrate a little why the EPA
6 oversight is so desperately needed in Kentucky.
7 Without going into details, because decisions are
8 still pending, here's how the Lexington
9 Herald-Leader described the controversy. "The
10 environmental groups uncovered a massive failure
11 by the industry to file accurate water discharge
12 monitoring reports. Also revealed was the
13 Cabinet's failure to oversee a credible water
14 monitoring program by the coal industry. So
15 complete was the lack of state oversight, it's
16 impossible to say whether the mines were violating
17 their water pollution permits or not. This abject
18 failure of state agencies to oversee the water
19 quality monitoring program in the State of
20 Kentucky is precisely why what the EPA is doing
21 and must continue to do is so important."

22 I also want to speak about some of the job's
23 numbers we've -- or some of the -- talk about jobs
24 that we've heard, because, you know, to -- to --
25 to hear what we've heard tonight, you'd think that

1 jobs are actually being lost in the Appalachian
2 coal industry. Actually, since the second --
3 second -- since June of 2009 when the enhanced
4 coordination procedures were announced, the number
5 of jobs in Appalachian mines are up by 6 percent.
6 2011 saw the highest employment in the coal mining
7 industry in 14 years. And that's not to paint too
8 rosy a picture, because, yeah, just this last
9 year, coal's gone -- basically gone from half of
10 our electricity supply to a third. And that's due
11 to competition from natural gas.

12 But EPA's job is not to worry about those
13 jobs and by rubber-stamping these permits, you
14 will not create a single new job because you
15 cannot rubber-stamp new buyers for coal for which
16 there is no demand. So please do your job. Find
17 the intestinal fortitude to not be intimidated and
18 to do what you know is right, which is follow the
19 science and follow the law.

20 (Applause)

21 MS. MacPHERSON: Okay. Thank you. Thank
22 you. Okay. Speaker number 42. Oh-oh. Could --
23 John --

24 SPEAKER NO. 42: Okay.

25 MS. MacPHERSON: Does it work?

1 SPEAKER NO. 42: There. My name is Steve
2 Gardner. I'm a licensed professional engineer
3 with bachelors and masters degrees in engineering.
4 As a professional engineer, my first obligation is
5 to public health, safety, and welfare. I've
6 worked in and around the Appalachian mining
7 industry as an engineer and scientist for almost
8 40 years. I feel I've accomplished some good.
9 I'm also a concerned citizen and a native of
10 Appalachia, having grown -- grown up on a tobacco
11 farm. I've observed one thing in my career.
12 Farmers and miners are fiercely proud of what they
13 do and have a deep love of the land. They feel
14 what they do is essential to society and can --
15 and it can be done in a responsible manner.
16 Mining and farming are the basis of our society
17 and provide the standard of living that we all
18 enjoy.

19 I saw the passage of the Surface Mining
20 Control and Reclamation Act of 1977, or SMCRA, as
21 many know it, and I've worked through the
22 implementation and industry transitions that
23 ensued. One point that I don't believe everyone
24 remembers is that SMCRA was intended to include
25 the provisions of the Clean Water Act and provide

1 a -- an efficient permitting process for
2 government, industry, and the public. Many in the
3 mining industry felt that SMCRA would be the end
4 of surface mining in Appalachia. It did have a
5 tremendous impact.

6 Mountaintop removal mining was specifically
7 provided for in the law, and strongly encouraged
8 by government research and development. Since
9 this controversy has evolved, EPA has redefined
10 all surface mining in Appalachia to be mountaintop
11 mining. An important point is that EPA's current
12 implementation and reinterpretation of laws will
13 also impact the ability to conduct underground
14 mining.

15 We must question not only the fairness of
16 these policies which are being applied narrowly to
17 certain Appalachian regions, but also their
18 legality. While Appalachian coal production is in
19 decline, we see an increase in mining in Illinois
20 and other regions, further exacerbating the
21 economic disparities.

22 Now, Jim, still, take this with constructive
23 criticism, but engineers and scientists who work
24 in the industry agree that EPA objections to
25 permits show a fundamental lack of understanding

1 of basic engineering and science and are based on
2 incomplete science at best. University scientists
3 who actually know something about mining at UK,
4 Virginia Tech, and West Virginia, are rapidly
5 showing the studies that EPA has based their
6 decision on, to be flawed at best.

7 MS. MacPHERSON: Thank you.

8 SPEAKER NO. 42: Thank you.

9 MS. MacPHERSON: Thank you. (Applause).
10 Okay. Speaker number 43.

11 SPEAKER NO. 43: Ruth Bamberger,
12 B-a-m-b-e-r-g-e-r. I'm a citizen of Kenton
13 County, Kentucky. I support the EPA's denial of
14 these permits until such time that the coal
15 company's state and federal regulators can work
16 out an agreement compliant with the Clean Water
17 Act. As EPA Director Lisa Jackson stated when the
18 comprehensive guidance to protect Appalachian
19 communities from harmful impacts of mountaintop
20 mining was issued in April 2010, quote, "We will
21 continue to work with all stakeholders in finding
22 a way forward to follow science and the law." And
23 science attempts to embody the laws of nature. My
24 friend's car bumper sticker says, "Mother nature
25 always bats last."

1 The policy forum on mountaintop mining
2 consequences in the January 8th, 2010 issue of
3 Science concludes, in part, that aerial of
4 headwater streams by valley fills causes permanent
5 loss of ecosystems necessary for nutrient cycling.
6 Below valley -- below valley fills, streams have
7 increases of pH, electrical conductivity, and
8 dissolved solids because of elevated
9 concentrations of sulfates, calcium, magnesium,
10 and coal-generated sulfuric acid. Conductivity
11 and elevated amounts of sulfates disrupt aquatic
12 biota, increase nitrogen and phosphorus levels,
13 and levels of metals, such as iron, aluminum, and
14 selenium.

15 The laws of nature require compliance from
16 all of us, coal companies, consumers, politicians,
17 state and federal regulators entrusted to oversee
18 the welfare of the community. Coal mining is
19 complicated in Kentucky because of the tensions
20 with job opportunities, making a profit,
21 maintaining a quality environment. How to work
22 out a balance fair to all necessitates working
23 together.

24 My plea is, stop being adversaries and let's
25 work together. Thank you.

1 MS. MacPHERSON: Thank you. (Applause).

2 Okay. Speaker 44.

3 SPEAKER NO. 44: Hello. And thank you for
4 allowing me to speak tonight. My name is John
5 Jones. I'm vice president of --

6 MS. MacPHERSON: Could you -- could you move
7 the mic up a little. There you go.

8 SPEAKER NO. 44: I'm vice president of
9 Environmental and Regulatory Affairs for Alpha
10 Natural Resources. I will be submitting technical
11 comments, just want to make a few general comments
12 here tonight. First of all, I'd like to say Alpha
13 is the third largest producer of coal in the
14 country. 2011 we produced a little over 100
15 million tons. We're currently the largest -- or
16 second largest producer in the State of Kentucky.
17 We -- in 2011, our Kentucky subsidiaries produced
18 11 million tons of coal here in Kentucky and
19 employed over 2,000 people. We had a Kentucky
20 payroll of \$207 million. And our miners are
21 generally paid higher wages than -- than other
22 workers in the state. We were responsible for
23 approximately five -- 5,900 indirect jobs. We
24 spent \$22 million on supplies from 186 different
25 suppliers. We paid 30.5 million in state and

1 local taxes, and made a capital investment of 69.4
2 million here in Kentucky. We also provided nearly
3 a half a million dollars to support community
4 activities.

5 I'd just like to say, in my 30 years of
6 working in the coal industry, never seen such an
7 attack on our business from DC bureaucrats or such
8 disregard for stated rights. EPA and other
9 federal agencies have devised and carried out a
10 very vigorous campaign to stop coal mining,
11 especially here in the central Appalachian
12 coalfields. A recent decision in the NMA vs.
13 Jackson case determined that the EPA acted
14 illegally in its efforts to stop the 404
15 permitting process for coal mines in Appalachia.
16 And we anxiously await the second half of that
17 case, which challenges the legality of the April
18 20th interim guidance, which all of these permit
19 objections are based upon.

20 We have seven of those permits that belong to
21 our subsidiaries. And we strongly feel that EPA
22 should stop crucifying the Kentucky coal industry
23 and it's highly respected regulatory agencies. We
24 think that EPA should withdraw these unreasonable,
25 nonspecific, painful, every-step-of-the-way

1 objections. Thank you.

2 MS. MacPHERSON: Thank you. (Applause).

3 Okay. Speaker number 45.

4 SPEAKER NO. 45: My name is Haven King,
5 H-a-v-e-n K-i-n-g. I'm the County Clerk of Perry
6 County, in Hazard, Kentucky. I'm also the
7 president of Coal Mining our Future. Now, I want
8 to give you some -- some facts, okay. I don't
9 think that the EPA is -- is like the guy in Texas
10 when he wants to go out and his -- his -- he wants
11 to go out and crucify people and like the Romans.
12 I don't think you all are that way. I don't think
13 you -- I don't think you want to do that. But
14 it's like Secretary Peters said when he first
15 started here, his comments were that you all sit
16 down in a room, you had a conversation with the
17 Secretary -- the Energy Secretary of Kentucky and
18 the EPA, thought you had an agreement whenever you
19 left that meeting, but whenever, after you left,
20 then you changed -- you're changing in the
21 midstream. So that's what's happening.

22 First thing you did, you did cap and trade.
23 When cap and trade didn't work, we stopped cap and
24 trade. When cap and trade didn't work, then you
25 went to conductivity. Conductivity, you want the

1 conductivity to be 300 coming off of a permit, a
2 surface permit. Now, the conductivity at my
3 house, where I live in east Kentucky, is 725.
4 That's city water. Now, after that, you go from
5 conductivity -- are we losing jobs? I don't know
6 where you're getting the information. We've lost
7 hundreds of jobs in Perry County, Hazard,
8 Kentucky. We've had major, major layoffs. We've
9 had -- we've had over 1,000 people laid off in two
10 counties. That's 1,000 coal miners that make 65
11 to 70,000 a -- a year. In two companies, the
12 impact has been with the layoff is 1.8 million a
13 month. Another company, the impact in these
14 counties is 1.8. That's \$3.6 million took out
15 of our -- it's took out, it's took out of our --
16 with our tax structure and all these things.

17 But we ask you, you know, you're going to be
18 the reason that people are going to die. We're
19 going to have people, like he said, on fixed
20 income, they cannot pay these power bills, and
21 you'll be the reason for that. So consider that.
22 Thank you.

23 (Applause)

24 MS. MacPHERSON: Thank you. Okay. Speaker
25 number 46.

1 SPEAKER NO. 46: Yes. My name is Brian
2 Patton, B-r-i-a-n P-a-t-t-o-n. I'm the president
3 of James River Coal Service company, and I'm here
4 tonight, and I appreciate Chris and Jim coming to
5 talk to us. We've had meetings in the past and
6 worked together very much so in the past. We have
7 three of the permits that are in question at this
8 point. I want to talk about those three, as well
9 as three permits that are not in question that we
10 have removed.

11 Draft KPDES permit number KY0091910 would
12 authorize the discharge of treated wastewater
13 consisting of precipitation runoff from SMCRA
14 permit 8970287, amendment 7. The amendment would
15 add approximately 128 acres of mining activity to
16 the presently authorized 327 acres. The proposed
17 mining activity would include no new hollow fills,
18 no instream ponds. Wastewater from the proposed
19 new mining activity would be discharged to the
20 waters of the Commonwealth categorized as high
21 quality waters and would not involve discharging
22 impaired waters.

23 Draft KPDES permit number KY 0106682 would
24 authorize the discharge of treated wastewater
25 consisting of precipitation runoff from permit

1 number 8975061, Amendment 4. The amendment would
2 add approximately 92 acres of mining activity to
3 the presently authorized 312 acres. And, again,
4 there will be no new hollow fills, no instream
5 ponds.

6 MS. MacPHERSON: Hold on. Sorry. I -- I
7 don't want the time to be going when you're
8 describing the permit.

9 SPEAKER NO. 46: Okay.

10 MS. MacPHERSON: So if you could just pause
11 it. Yeah. And did you get all that down? I have
12 no idea how this woman is getting all this
13 information down.

14 SPEAKER NO. 46: I'm going to talk fast.

15 MS. MacPHERSON: You are a fast talker. Are
16 those the three permits?

17 SPEAKER NO. 46: I have one more.

18 MS. MacPHERSON: Okay. Keep going, and then
19 we'll start the clock up again. Don't start it
20 yet.

21 SPEAKER NO. 46: Draft KPDES permit number
22 KY0091847 would authorize the discharge of treated
23 wastewater consisting of precipitation runoff from
24 SMCRA permit number 8978039 is modified. The
25 permit area presently includes the coal processing

1 and loading facility, as well as mining activities
2 authorized on a total of 367 acres. Again,
3 there'd be no additional acres to which the
4 presently authorized mining operations, and would
5 include no new hollow fills and no new instream
6 ponds.

7 Out of those three permits -- and if you want
8 to go ahead and start the clock.

9 MS. MacPHERSON: No, I'll give you a couple
10 minutes on the clock because it was going during
11 the first bit.

12 SPEAKER NO. 46: And as stated earlier, out
13 of these three permits, there is no impacts, no
14 new hollow fills, no new ponds. We have waited
15 now for over two years for these permits to be
16 issued. We also have three other permits. Laurel
17 Mountain Resources has withdrawn its applications,
18 KPDES permits number -- and I will -- KY0108715,
19 KY0109100, KY0108294. Accordingly, the EPA
20 hearing's objections to these draft permits are
21 moot. The company has revised its proposed plans
22 for each of these activities that would have been
23 addressed under the April mentioned draft permits.
24 The Kentucky Division of Water has authorized the
25 discharge of wastewater from each of the revised

1 permits under the general permits, KPDES general
2 permit, for the mining activities that became
3 active in August the First.

4 What I want to say here is we have three
5 permits that could be, three permits that are no
6 more. The three permits that are no more have a
7 combined total loss to the community of \$8.7
8 million in coal severance tax money; \$17.45
9 million in royalties to private, private owners;
10 \$3.13 million in lost wages to the community, for
11 a total of over \$30 million lost to the community
12 in the three permits that we are not going forward
13 with because of the delay in getting permits. The
14 three permits that are still sustaining here right
15 now, there's over \$100 million of investment
16 that's laying on the table right now waiting for
17 these permits to go forward.

18 I'll ask you tonight, because my coal miners,
19 my 2,000 coal miners who had to go back to work
20 (Audience member responds) are not here. Look at
21 these people that are here tonight. These are not
22 the people of eastern Kentucky. These are not the
23 people that represent us. They do not have a
24 solution for our jobs and they will not be here to
25 help us. Thank you, Jim.

1 (Applause)

2 MS. MacPHERSON: Thank you. Okay. Speaker
3 number 47.

4 SPEAKER NO. 47: Tim Joice, J-o-i-c-e, and I
5 am the water policy director for Kentucky
6 Waterways Alliance, or KWA. KWA advocates for
7 clean water on behalf of all 700 of our members
8 and all the citizens of the Commonwealth. We
9 advocate for changes to laws to provide further
10 protection to our waterways, but we also advocate
11 for the enforcement of existing state and federal
12 laws intended to protect our waterways. After
13 all, we are a country with laws enacted over time
14 in order to protect our freedoms and protect the
15 public goods and health of our nation.

16 I'm here tonight to express support of EPA's
17 objections. EPA is fully within its authority
18 granted by the Clean Water Act, a 40-year-old
19 federal law intended to clean up our nation's
20 waterways and protect them from any further
21 pollution, and, thereby, protect us all. KWA
22 believes the problems related to these and
23 hundreds of other coal general permits are
24 numerous. Waterways continue to degrade in the
25 areas of eastern Kentucky that have -- that have

1 been or continue to be heavily surface mined.

2 This fact is depicted in the state 305(b) reports
3 and the 303(d) list of impaired waters from recent
4 years.

5 Clearly, past measures have not provided
6 adequate protections to meet the state's own water
7 quality standards. The newer permits proposed by
8 the state are stricter, but still are not easily
9 enforceable for meeting the state's laws. Under
10 the Clean Water Act, discharges by all industries
11 are not allowed to harm the uses of our waters,
12 which include fishing, drinking, or recreation.
13 The reality, though, is that, for quite sometime,
14 coal mining discharges have violated this
15 provision, and the mining industry must be held to
16 the same standards as every other discharging
17 industry in this nation. The results of this
18 process could also have significant implications
19 for the new coal general permit in 2014, and the
20 subsequent future of waterways in this state and
21 the health of our citizens.

22 Coal mining issues are often controversial
23 and divisive, as evidenced here tonight. But
24 there should be no division on this issue amongst
25 us all here tonight. We are all Kentuckians. We

1 are all humans and we all need clean water. That
2 goes for businesses, industries, and citizens. It
3 is not clean water or jobs, it is both. More
4 importantly, we have laws to protect the people
5 and resources of our state and country. Thank
6 you.

7 MS. MacPHERSON: Thank you.

8 SPEAKER NO. 47: Please, EPA, stand firm.

9 (Applause)

10 MS. MacPHERSON: Thank you. Okay. Speaker
11 number 48.

12 SPEAKER NO. 48: Thank you. My name is Rick
13 Honaker, H-o-n-a-k-e-r. I'm chair of the mining
14 engineering program at University of Kentucky.
15 The mining engineering program focuses on mining
16 research and the education of future mining
17 engineers, with the capabilities of addressing the
18 mining -- the many change -- challenges that face
19 the industry today including the need to minimize
20 the environmental impact of mining.

21 A fact that is not commonly recognized by the
22 general public is that mining is a necessity of
23 life. Most everything we use comes from mining.
24 It is one of the only two basic resource
25 industries. The other industry is agriculture,

1 which has also been impacted by recent -- in the
2 recent years by new EPA regulations. Both mining
3 and agriculture are obviously extremely important
4 to the health and well-being of every Kentuckian
5 and U.S. citizen.

6 I also completely agree that clean water and
7 air is a natural born right. Given that we
8 require all the above, EPA should be working with
9 the mining industry to establish attainable
10 environmental standards over a reasonable time
11 period. I am confident that given a grace period
12 to adapt to new and reasonable standards, the
13 mining industry and academia could make great
14 strides to the -- in the development or
15 modification of mining practices to meet the
16 targeted environmental requirements. However, the
17 recently established environmental standards
18 applied to mining, specifically in operations in
19 Central Appalachia, with no grace period, show a
20 lack of desire to work with industry to achieve
21 the desired goals.

22 If EPA continues with its current practice,
23 unemployment in the area where poverty is already
24 high will surely increase, energy costs will
25 elevate, and families will have difficult times

1 securing the necessities needed to ensure a long
2 and healthful -- healthy life. I know these
3 difficulties quite well as a result of my
4 childhood experiences growing up in the Central
5 Appalachia coalfields.

6 I encourage the EPA to use sound scientific
7 facts and engineering when considering the coal
8 permits under question and strongly consider the
9 negative ramifications of reduced employment in
10 areas already economically depressed. Thank you.

11 (Appause)

12 MS. MacPHERSON: Thank you. Okay. Number
13 49.

14 SPEAKER NO. 81: 81.

15 MS. MacPHERSON: You're 84?

16 SPEAKER NO. 81: 81.

17 MS. MacPHERSON: Oh, 81. See, just testing
18 you guys. 81.

19 SPEAKER NO. 81: All right. Thank you.
20 Thank you. My name is Rusty Cress, and I'm
21 speaking today on behalf of the Kentucky
22 Association of Manufacturers. KAM is a statewide
23 trade association representing over 2,000
24 manufacturing facilities and over 224,000
25 manufacturing jobs in Kentucky. Kentucky's

1 manufacturers are heavily dependent upon low cost
2 energy that is available, largely because of the
3 state's abundant coal resources. Low cost energy
4 has been a primary factor in the decision of many
5 of Kentucky's largest employers that locate their
6 facilities in Kentucky, and has allowed Kentucky
7 to succeed in competing for new and expanded
8 businesses. Unfortunately, EPA's objections to
9 KPDES permits for new and expanded surface coal
10 mining activities threatens to disrupt Kentucky's
11 favorable energy supply status.

12 KAM is greatly concerned that EPA's actions
13 will result in a loss of manufacturing capacity in
14 Kentucky and consequent loss of jobs at this
15 critical moment. EPA's implementation of its new
16 requirements for Clean Water Act permits for
17 eastern Kentucky surface mines is wholly
18 inappropriate. The requirements were imposed
19 without any prior notice to industry or to the
20 state permit issuing authority and were effective
21 immediately. Procedures that had been approved by
22 EPA and used for decades in the issuance of Clean
23 Water Act permits were not used, resulting in
24 chaos.

25 The impact of EPA's inappropriate actions

1 will be felt dramatically by Kentucky's
2 manufacturing community, which recognizes that
3 coal is a low -- is low cost energy source that
4 will be in demand for years to come. We should be
5 exploring ways to better utilize this energy
6 source, rather than hindering its use. Kentucky's
7 manufacturers, their employees, their families,
8 and Kentucky's economy will suff -- will suffer if
9 EPA's objections stand. Thank you very much.

10 (Applause)

11 MS. MacPHERSON: Thank you. Thank you. So I
12 hope you're number 82.

13 SPEAKER NO. 82: 82, yes.

14 MS. MacPHERSON: Okay.

15 SPEAKER NO. 82: My name is Jimmy Hall, and
16 I'm from Letcher County, Kentucky, Millcreek. The
17 reason I'm here is because I've been dealing with
18 the mines and permits for the last eight years,
19 nine years, over some issues. I had drums of oil,
20 250-gallon, five-gallon drums of oil up on top of
21 the hill with orange sludge coming out of it.
22 They told me that there was nothing wrong with it.
23 It was surface water, okay. I want to commend the
24 EPA, the gentleman that come out and tested my
25 water here recently. About three weeks ago he

1 give me a call, me and my neighbor, Chris Yonts,
2 and told us, "Don't drink the water because it has
3 arsonic and lead in it." Okay. He's got two
4 small children. I'm a grandfather, I'm a great
5 grandfather, and I sure don't want my kids
6 drinking that stuff.

7 If the mines -- I'm not against mining, but
8 if they would do the job and do it the way it's
9 supposed to be done, follow the regulations that I
10 have to follow when I go do something, everything
11 would be good. So anybody's talking about getting
12 rid of the EPA, I think they're a fool. Because
13 right now, I spent eight years of my life and a
14 whole bunch of money to reclaim my family
15 homestead, and it will be the day I die, I'll
16 fight for it. It's not right. These kids are the
17 ones that are suffering.

18 If they would follow the rules, everything
19 would be good. Nobody would be complaining about
20 it. We could all dig our coal. But that strip
21 mining, I've been stripped, I've been gutted, and
22 I've been flat [ph]. And now I got to drink
23 arsonic water. And I thank you for your time.
24 And I think the EPA should stay right where
25 they're at. And I think they should start

1 investigating some of these -- Nationwide permit
2 21, Millcreek, Shelby Fork, they filed for it.
3 They rubber-stamped it, came back, they never --
4 they never got a Nationwide permit 21 for that
5 area. I need help. Thank you.

6 (Applause)

7 MS. MacPHERSON: Thank you. Thank you.
8 Okay. Speaker number 83.

9 PUBLIC SPEAKER: I'm speaker number 83. My
10 name is Hank Graddy, G-r-a-d-d-y. I'm an attorney
11 and I'm speaking as a concerned citizen of the
12 Commonwealth of Kentucky. I applaud EPA for the
13 decision to object to the permits you objected to
14 in 2010 and 2011. I applaud you for holding
15 tonight's public hearing. I ask EPA to reaffirm
16 its objections to all of these 36 permits.

17 I'm a member of the Sierra Club and I've been
18 a member of the Sierra Club for 37 years, and I've
19 held a number of offices in the Sierra Club
20 relating to water protection and also relating to
21 coal mining. I'm also one of the founding members
22 of Watershed Watch in Kentucky and the Kentucky
23 River Watershed Watch. I've been trained to use
24 my own conductivity meter and to include that in
25 our water quality assessments. I've attached some

1 of our results to my written comments.

2 But I'm speaking as an individual and not on
3 behalf of an organization. One of the things that
4 I have -- I base my comments tonight on your
5 objection letters, the ones that I read, and one
6 of the things that has amazed me tonight, and with
7 all of the asteria and all of the exaggeration and
8 all of the world coming to an end, all of the
9 hyperbole that we have heard, almost no one has
10 actually mentioned what is in your letter of
11 objection.

12 Your letter of objection notes that the
13 Division of Water is required to do a reasonable
14 potential analysis, and you asked them to do that
15 and they refused to provide you with the data that
16 was necessary to do a reasonable potential
17 analysis. They said they weren't going to provide
18 it to you. You then singled out states that had,
19 apparently, a record, a long pattern of
20 noncompliance, four states that deserve special
21 attention because of a history of failure to
22 properly implement the law. That is why we're
23 here, because the Division of Water, my friends
24 right in front of me, have failed to do what they
25 need to do in response to EPA guidance. You

1 issued the guidance in this case just like you've
2 done for 40 years. You issued guidance. And then
3 the states implement regulations to implement that
4 guidance. There's no different here. This is the
5 same process we've been going on for 40 years.
6 And, now, we're having an asteria evening.

7 MS. MacPHERSON: Thank you. Thank you for
8 your comments. (Applause). And, again, if you've
9 got written comments, please submit them.
10 (Applause). Thank you. Okay. Speaker 84.

11 SPEAKER NO. 84: Hello. My name is Shannon
12 Buzard, a Kentucky -- a citizen from Lexington,
13 Kentucky, family of four. First, I'd like to
14 start with the Ninth and Tenth Amendment that is a
15 right to all of us. "The enumeration in the
16 Constitution, of certain rights, shall not be
17 construed to deny or disparage others retained by
18 the people." Amendment 10, "The powers not
19 delegated to the United States by the
20 Constitution, nor prohibited by it to the States,
21 are reserved to the States respectively, or to the
22 people."

23 What has brought me to this issue, place, and
24 time, it was my simple request for knowledge and
25 understanding regarding cap and trade that evolved

1 from fear-mongering advocates of global warming.
2 However, acceptance of it clearly became an
3 impossibility due to its impact and effects of
4 every single aspect of my life, my faith, my
5 family, and lives of my community. Knowledge of
6 this issue was acquired through hours of on-line
7 research, social networks, my right of political
8 participation, attending committee meetings,
9 petitioning for the Tenth Amendment, interactions
10 with representatives, and endurance of the -- of
11 most meetings of the Kentucky Climate Action Panel
12 responsible for completing a climate action policy
13 suggestion manual, which, in my view, is
14 technically obsolete due to being unable to adjust
15 its findings with current and constant changing of
16 climate behaviors, innovation, and advancement of
17 technology, shifts of the economies and laws.

18 The KCAP started as a \$200,000 taxpayer
19 environmental project approved by the governor
20 support, to support his 7 point energy and 40
21 percent emissions reduction plan. This plan was
22 initiated by the IPCC established by the United
23 Nations environment program, and the World
24 Meteorological Organization, which spawn from the
25 latest and greatest sustainability movement known

1 as UN Agenda 21, kin to the Kyoto Protocol.

2 Please research this all on-line, and you can
3 also get the Kentucky Climate Action Panel, the
4 complete policy manual is on-line also. The whole
5 thought or notion -- oh, my gosh, I'm so sorry.

6 MS. MacPHERSON: It's amazing two minutes
7 goes by really fast.

8 SPEAKER NO. 84: Okay.

9 MS. MacPHERSON: But, please -- oh, I'm
10 sorry. We have to -- please submit -- anything
11 that you have in writing will be made a part of
12 the permanent record, okay. We -- we still have
13 others we have to get through. And, actually, at
14 this time, I'd like to call the numbers 110 to 120
15 to please go in the back. I appreciate your
16 perseverance and sticking it out. Please go meet
17 Chuck holding the white piece of paper there.
18 Okay. Next speaker.

19 SPEAKER NO. 89: Okay. Okay. I'm Myles
20 Maxson. And it's spelled M-y-l-e-s M-a-x-s-o-n.
21 And I just turned 12 and I live in Madison County.
22 When I grow up, I want to live in the type of
23 world where people are more important than money
24 (Audience member responds) where I can climb to
25 the top of any one of our beautiful Appalachian

1 mountains and breathe in the fresh air and look in
2 all directions and not be upfronted by ugly scars
3 on these amazingly biodiverse masterpieces. I
4 want to live in a world where poverty is the -- is
5 the exception not the expectation and where clean
6 water is taken for granted. Unfortunately, that
7 is not the kind of world my friends and I are
8 likely to grow up in. And for many people living
9 near mountaintop removal sites, that's not the
10 world they live in today.

11 Allowing these permits or any others to go
12 forward, when they don't follow the Clean Water
13 Act, just sets me and my generation up to live in
14 a world where the water is not safe to drink, nor
15 the air safe to breathe. Our state has made it
16 clear that it cannot and will not fairly enforce
17 the Clean Water Act. As a result, people in
18 mining communities have higher rates of many
19 health problems, from cancer to birth defects.
20 The poverty rates in areas where we have been
21 mining coal for the last 100 years are some of the
22 highest in Kentucky. For every mining pollution
23 permit given that doesn't follow the law, there
24 will be even more places where the air is not safe
25 to breathe and the water not safe to drink.

1 I would like to thank you for at least
2 temporarily denying these 36 permits. Keep up the
3 good work by stopping even more of the pollution
4 permits if they do not comply with the regulations
5 and protect our health and water. I know you are
6 under pressure from the coal companies and
7 Governor Beshear to allow these permits to pass,
8 but you're the EPA. Your job is to protect the
9 environment. How can they sue for doing your job?
10 So please think about it from my point of view.
11 If you were a 12-year-old growing up in a
12 deteriorating world, would you be very happy with
13 the situation? I think not.

14 I come before you to represent my generation
15 and ask you if you would please think about what
16 you have heard today. Please stand strong, do
17 your job, and give us a shot at a good future. I
18 would like to thank you for listening to me today.

19 (Audience members stand. Applause.)

20 MS. MacPHERSON: Thank you. Thank you.
21 Okay. Next speaker.

22 SPEAKER NO. 86: Yes. My name is Paul
23 Johnson, P-a-u-l J-o-h-n-s-o-n. I'm out of
24 Walton, Kentucky. I want to say, first of all,
25 that this meeting tonight is absolutely positively

1 illegal (Audience member responds) according to
2 Article 1, Section 8 of the U.S. Constitution.
3 There -- you know, this commerce cause has been
4 stretched and -- and wound around.

5 I want to just read part of the Section 8.
6 "Congress shall have power to collect taxes,
7 duties, and so on, to borrow money, and so on, to
8 regulate commerce and foreign nations, and among
9 the several states with the Indian tribes." That
10 says "Congress." It does not say "Obama."
11 Congress has the right, so Congress has not taken
12 away the Tenth Amendment yet. We haven't voted on
13 it in Kentucky. So I propose that the EPA is
14 absolutely illegal because it usurps the authority
15 of the several states.

16 And I want to read the Tenth Amendment if I
17 can. Here we go. "The powers not delegated to
18 the United States by the Constitution, not
19 prohibited by the States, are reserved to the
20 States respectively, and to the people." Now,
21 either that's true or it's not. If we don't want
22 to live with this, then we ought to get away with
23 it, or do away with it. Dick Chaney said when he
24 and Bush won, he said, "Help's on the way. I want
25 to let you know, America, help's on the way."

1 James Inhofe [ph] introduced a bill last night on
2 the Senate floor, it'll be voted on in two weeks,
3 and this will shutdown -- would send EPA back to
4 the drawing board to craft a rule that balances
5 environmental protections, economic growth,
6 instead of killing coal.

7 And I had a cro -- I had a crown of thorns I
8 was going to bring in here tonight, but they
9 wouldn't let me in. The Greeks introduced
10 crucifixion, but the Romans -- the Romans made
11 it -- they edified it. They -- they made it
12 better, and so they put a crown of thorn on Jesus.
13 (Audience member responds). (Applause). And you
14 know what he said, "Father, forgive them, for they
15 know not what they do." And I'm not really sure
16 that people know what they're doing about this.

17 MS. MacPHERSON: Thank you. Thank you for
18 your comment. (Applause). Okay. Next speaker,
19 go ahead.

20 SPEAKER NO. 91: I'm Don Pratt. I'm
21 originally from Hazard, Kentucky, but lived in
22 Hindman, Kentucky, when I was an infant, and moved
23 to Lexington and grew up there. It's not
24 important who I am, but if you want to know, I
25 have raised 64 children as a foster parent and

1 I've raised biological and adopted children. I've
2 had a small grocery, and I've run for political
3 office spending only \$1,000 or less, and my
4 opponent spent 78 times that and only got a few
5 thousand votes more. 19,500 was an amazing amount
6 for five -- for \$1,000.

7 But I'm honest. And the people of Lexington
8 knew who I was and why I stood up. I stand up
9 with you with honesty. I wanted to get this young
10 man to read my speech because, obviously, he says
11 it so eloquently. But I want you to know that I'm
12 here to tell you that I love coal. I love miners.
13 And I love many benefits from energy. But I love
14 the mountains, I love the land, I love the air, I
15 love the water better. I love the soil better. I
16 have been to the mountain. I've been to mine
17 disasters in my past. I've been with Robert
18 Kennedy concerned about mountain poverty. I've
19 been to the mountaintop with Harry Caldwell,
20 author of "Night Comes to the Cumberland," joining
21 in the fight to -- against abuses of strip mining
22 and the abandonment of such sites. I've joined
23 the fight of -- against legal -- of legal -- then
24 legal broad form deeds, and helped organized for
25 black lung benefits when it was denied by Kentucky

1 elected officials and by coal. I've been to the
2 sludge piles. I've been to the Martin County
3 slurries spill. And in all of these battles, the
4 coal industry lied and cared little about the
5 people or the land's welfare.

6 I just heard something today, or read
7 something today of a photo of a sign in front of a
8 police station that said, "Toilet stole [ph]
9 stolen, nothing, nothing to go on." If we
10 continue to destroy the earth and our kids and our
11 grandkids' essential childless [ph], we'll have
12 nothing to live on. Thank you.

13 MS. MacPHERSON: Thank you. (Applause).
14 Okay. Next speaker, please, go ahead.

15 SPEAKER NO. 88: Yes. I'm David Fields,
16 D-a-v-i-d F-i-e-l-d-s. I'd like -- I'll be -- I'd
17 like to begin by expressing my deep appreciation
18 for the EPA's efforts to enforce the Clean Water
19 Act as it applies to discharges associated with
20 coal mining and also for your efforts to obtain
21 input from the public. That's very significant.
22 There are two specific points I wanted to
23 emphasize. The first is that many of the EPA
24 regulations pertaining to mountaintop removal are
25 in response to mandates from the judicial system.

1 These mandates were issued precisely because the
2 states were not doing a satisfactory job of
3 protecting the lands, the waters, and the
4 residents of Appalachia from the egregious impact
5 of MTR.

6 My second point, I'll mention on it, that
7 I've lived in Kentucky since '86, but I'm
8 originally from West Virginia. So this second
9 part is really pertaining to the West Virginia
10 situation. Environmental organizations such as
11 KFTC and others have won several lawsuits against
12 coal companies because the companies were not in
13 compliance with the regulations, but the egregious
14 consequences of -- for the land and the people. A
15 recent case in West Virginia involved Patriot Coal
16 Company and covered 43 pollution outlets
17 associated with ten water discharge permits at
18 three of Patriot's mining complexes. Under the
19 settlement, Patriot must construct and operate new
20 selenium treatment systems that will end ongoing
21 water quality violations. Discharges must be
22 brought into compliance with completion -- with
23 pollution limits in phases over the next two to
24 five years based on the water and pollution flow.
25 Smaller outlets will be cleaned up first and

1 others subsequent.

2 In addition, Patriot has also paid 750,000 in
3 fines to the federal government and contributing
4 6.75 million to West Virginia Land Trust. So what
5 I'm driving at is that --

6 MS. MacPHERSON: I'm sorry.

7 SPEAKER NO. 88: Okay.

8 MS. MacPHERSON: I'm sorry. (Applause).

9 Again, please submit your -- the written comments
10 there. Okay. Next speaker, please go ahead.

11 SPEAKER NO. 97: Okay. My name is Bill
12 Couch. Woe. And I'd like to thank the
13 opportunity to come and speak. And I'm just a
14 God-fearing coal miner from Leslie County,
15 Kentucky. (Audience member responds). And I
16 don't know where the gentleman got his figures on
17 the -- the more jobs in eastern Kentucky, but
18 where I work at we have personally had layoffs in
19 the last -- we've had two layoffs in the last nine
20 months. And if you had -- if you ever had to look
21 at a dad and tell him that you've lost your job,
22 and in our county we don't have that many jobs,
23 when we lose our coal jobs, we don't have another
24 industry to go to. We can't go down the street or
25 go over to this factory or go over to that factory

1 and apply for jobs. We don't have it. And coal
2 is -- is our life style in Leslie County.

3 And these permits that are denied, that
4 affects us personally because we don't have
5 anything to go to. And the water quality -- the
6 water quality, I work at a mine with the Arch Coal
7 out of Hazard, and I invite -- I will, and I
8 invite anybody else, I know I've gotten a lot of
9 workers that will do the same as I'll do, anywhere
10 that we have runoff from our mine, it comes off in
11 a stream, anywhere on that mine I'll -- well, I
12 don't know if everybody here has ever laid down on
13 your hands and knees and got a drink out of the
14 creek, or get you a cup, we'll drink it either
15 way. I'll drink water out of any stream there is
16 running off our mines. I'll drink that water.
17 Because we got -- I mean, it's -- it's clean, I
18 mean, pure. It's not going to hurt you.

19 I'd like to make a -- compare it to down
20 here. That's -- that's our economic development,
21 our, you know, mining. Down here you all are
22 acting like the mining, or in other parts of the
23 state, is -- are your shopping centers,
24 subdivisions, parking lots, whatever, will you get
25 a drink of water where the sub -- where your storm

1 drains runs out? Will you get a drink water out
2 of the subdrains? I won't. Where we strip mine,
3 during active mining, I'll drink the water, during
4 post-active mining. Decades or centuries down the
5 road where we reclaim, we got grass growing on
6 trees, wildlife running, you know, record. We
7 have more wildlife in eastern Kentucky than we
8 ever have in my 56 years. But I don't think it's
9 impacting eastern Kentucky whatsoever.

10 So please work with us and treat us the same
11 and give us the same rules you give everybody else
12 to work with. And thank you for your time.

13 (Applause)

14 MS. MacPHERSON: Thank you. Thank you.
15 Okay. Next speaker, please go ahead.

16 SPEAKER NO. 90: I'm Truman Hurt from Perry
17 County, Kentucky, Montgomery Creek. I'm here to
18 ask the PA -- the EPA to help us to have clean
19 safe water in Kentucky and down the stream, as
20 water is not restricted to within our borders.
21 Only 36 of these permits have been held back out
22 of 151. So that means that 115 were given. 2,500
23 in the past have been given. The Clean Water Act
24 of '77 has never been fully implemented, and I
25 wonder if it ever will be. But the EPA has

1 definitely given us a little courage, but still I
2 can look below my house and see black creeks,
3 nothing but coal dust makes black creeks. I can
4 still see that. And everybody would say, "That
5 don't happen." It happens. Without the EPA,
6 we're going to continue to have that.

7 I don't care how many times they test the
8 water out here. It began back there in the
9 mountains. I'm like the little fella, I believe
10 lives ought to be more important than dollars.
11 I'm not a scientist. I can't tell you how many
12 dollars it might cost if we don't allow these
13 permits, these 36, but I don't believe one job
14 will be lost. Many lives may be lost if we don't.
15 And that's what we need to prepare.

16 I'm completely ashamed of our state
17 government officials for not doing what they're
18 supposed to do in this permit process. And I ask
19 the EPA to hold the line and the law, to take back
20 the process from the state. They have shown us
21 that they're unable or unwilling to do the right
22 job.

23 MS. MacPHERSON: Thank you.

24 SPEAKER NO. 90: Thank you.

25 MS. MacPHERSON: Thank you very much.

1 (Applause). Okay. Next speaker, please go ahead.

2 SPEAKER NO. 113: My name -- oh, my name is
3 Susie Bell, B-e-l-l. I was born in Somerset,
4 Kentucky, my dad in Harlan, and my mother in
5 Harrodsburg. When I was growing up we were not
6 allowed to play in the creek. We called it
7 stinkin' creek. And it wasn't until I was a
8 grownup that I found out that just about every
9 county in Kentucky has a stinkin' creek. My
10 mother worked for the Division of Water here most
11 of her adult life, retired ten years ago, and she
12 confided to me that the Division of Water people
13 at work said there's not one stream in the state
14 of Kentucky that they would say was safe to swim
15 in, let alone drink.

16 I was a nurse at UK as a young adult working
17 on pediatrics and with the youngest pediatric
18 patients, the number of birth defects that we saw
19 coming out of eastern Kentucky, it validates my
20 sense that there's something terrible going on
21 there. When I heard the statistics tonight on the
22 birth defects caused around the mining, I think we
23 really need the EPA to protect us because we're
24 too stupid to protect ourselves. Our state, our
25 governor, our representatives are not doing their

1 jobs, so we really need you all to be here to do
2 this for us.

3 We need to diversify and -- and provide small
4 business loans for jobs. We need to do a lot of
5 other things, but you all can't fix that. What
6 you can do is protect us so that we're forced to
7 go ahead and do those other things that we need to
8 do. I have nine grandchildren. I'm hoping that
9 they can grow up to a world like that little boy
10 and have clean water. Thank you.

11 MS. MacPHERSON: Thank you. (Applause).
12 Okay. Next speaker.

13 SPEAKER NO. 92: My name is Steve Boyce.
14 That's B-o-y-c-e. I'm here this evening -- well,
15 I guess I should tell you that I live in Berea and
16 Madison County, and I'm here this evening as a
17 concerned citizen and also as state chair of
18 Kentuckians for the Commonwealth. I am another
19 Kentuckian urging the EPA to stand strong and
20 affirm your objections to these and any other
21 pollution permits that do not comply with the
22 Clean Water Act.

23 In saying this, I speak as an individual, but
24 I also speak on behalf of Kentuckians for the
25 Commonwealth, the Grassroots Social Justice

1 Organization with more than 7,500 members across
2 Kentucky. Although, our members are statewide,
3 KFTC's roots are in the eastern Kentucky
4 mountains. We've worked there for 31 years trying
5 to achieve the full and fair enforcement of laws
6 designed to protect the health and safety of mine
7 workers and mountain communities.

8 We believe that right now, today, Kentuckians
9 have our best opportunity and the most pressing
10 need to begin a transition to a healthier and more
11 sustainable, more diverse economy. Such a
12 transition will not be easy, but the world is
13 changing, and we must change. There's no way
14 "business is usual" can be maintained. All
15 Kentuckians share some important values that they
16 can bring to this transition effort. We all want
17 access to good safe jobs and support our families.
18 And as a necessary condition for such jobs, we all
19 need access to clean drinking water and to a
20 healthy environment.

21 Unfortunately, safe water and a healthy
22 environment are not now available everywhere in
23 the mountains. To give just two of what could be
24 many examples. Less than 18 percent of the Big
25 Sandy River watershed could support --

1 MS. MacPHERSON: Oh, sorry. I'm sorry.
2 Again, please submit those examples in writing
3 because we do want to get all of those comments.
4 I'm sorry, yeah. Like I said, two minutes
5 (Applause) isn't a lot of time. Okay. Next
6 speaker, please go ahead.

7 SPEAKER NO. 115: My name -- my name is Greg
8 Capillo, G-r-e-g, Capillo, C-a-p-i-l-l-o. And I
9 just want to say two things. One, human beings
10 don't defecate selenium and heavy metals on their
11 own naturally. So this idea that straight piping
12 and -- and while that definitely needs to be
13 fixed, and everybody in Kentucky deserves clean
14 water, and everybody should be, you know, drinking
15 from city water and city purified water, the heavy
16 metals that's -- that are present there are not
17 biologically caused. And everybody in this room
18 knows that. And I think that's one of the
19 frustrating things about this discussion, is that
20 there's one side that uses facts and statistics
21 and science, and there's another side that uses
22 fear and hate and negative emotions to drive folks
23 out.

24 The other fact of the matter is, is that
25 coal -- coal mining in eastern Kentucky has been

1 going on for a long time, and it's going to end
2 soon because coal is a finite resource. According
3 to the 2000 United States Geological Survey, we're
4 not going to be mining coal past 30 years in
5 Central Appalachia, period. That's true. That's
6 scientific fact. And we're not going to figure
7 out what's going to happen next when we're not
8 being intellectually honest in our discussions
9 about the issues. Thank you very much.

10 MS. MacPHERSON: Thank you. (Applause).
11 Okay. Next speaker.

12 SPEAKER NO. 94: My name's Don Becher,
13 B-e-c-h-e-r. I'm from the Covington, Kentucky
14 area. I'd like to think of myself as a fly
15 fisherman. A few years back I traveled eastern
16 Kentucky a lot for my job. On one trip to the
17 Pikeville area, I brought my fly rod along. A guy
18 I was dealing with from my work and I were talking
19 near a likely looking stream, and I asked him what
20 I might expect to pull out of there if I wet a
21 line. He said, "Nothing." He said the runoff
22 from the mines upstream had pretty much killed
23 everything. I had hope, however, because I'm old
24 enough to recall articles about Cleveland's
25 Cuyahoga River being so polluted it caught on

1 fire, and hearing Erie was once basically a dead
2 lake. However, after the Clean Water Act of 1972
3 and after industry raised hell, things began to
4 improve, and now I fish up in northern Ohio for
5 steel heads running out of Lake Erie.

6 I assumed the EPA would catch hell today,
7 with the mining companies scaring their employees
8 and actually busing folk in. I understand the
9 miners' concerns because jobs are tight.

10 But as I understand it, what the EPA wants
11 the state to do is merely ensure that mining
12 companies have plans in place to assure that
13 things like toxins and silt don't find their way
14 into streams in dangerous levels. Kentucky
15 political apparatus is beholden to those mining
16 companies, and, quite frankly, can't always be
17 expected to have the intestinal fortitude to do
18 the right thing.

19 Just last week, certain citizens of
20 Harless [ph], near Pikeville, had to file a
21 lawsuit against the state because of flooding
22 damage from a runoff caused by a mining company
23 failing to reclaim its mining operations in a
24 timely manner, with the state allowing that
25 company to continue mining on an expired permit.

1 I, therefore, appeal to the EPA, which, hopefully,
2 is not so directly influenced by the coal
3 operators' campaign contributions and power in
4 this state, to do the right thing and require that
5 the states have adequate water quality standards
6 that must be met with respect to these 36 permits.
7 Thank you.

8 MS. MacPHERSON: Thank you. (Applause).
9 Okay. It looks like we've got -- could I ask
10 the -- the last two speakers over there to maybe
11 move over here (indicating). Oh, there's another
12 one, too. Yeah, maybe just have two, just so it's
13 a little balanced. Could you just move behind
14 this microphone. That would be great. Just two
15 of you, just to even it out. And are you a
16 speaker, too?

17 PUBLIC SPEAKER: Yes.

18 MS. MacPHERSON: Okay. Great. Any other
19 speakers for tonight? Okay. Just trying to get a
20 sense. Thank you. Go ahead.

21 SPEAKER NO. 117: Hi. My name is Felix
22 Woods. I would like to thank -- thank you for the
23 opportunity to speak tonight. I am a native
24 Kentuckian. I currently live in London, Kentucky,
25 the 5th District. Until December of last year, I

1 lived in Clay County on a 64-acre farm. One
2 afternoon I was sitting on my front porch on the
3 swing watching the water flow by in Bullskin
4 Creek, it turned gray. And it was a clear sunny
5 day. There was no reason for this spring to be --
6 to be muddy. One of my neighbors stopped and
7 asked me what it was, and neither of us knew, but
8 we decided to follow it to its source. The source
9 was a mine at my niece and her husband had on
10 their property. And the people I spoke with acted
11 like it was, you know, just common, and I
12 shouldn't be concerned about it.

13 I called the state the next day. A few days
14 later, the mine was shutdown and fined. A few
15 days later, they opened back up, and that process
16 continued several times. They released the sludge
17 again and again and again. I had horses and other
18 animals on the farm that I could not water from
19 the streams anymore. And I had a conversation
20 with my niece that owned the property, and she
21 said she was told by the miners that it was
22 cheaper for them to release the sludge, pay the
23 fine, and continue, instead of building the
24 retaining ponds.

25 I ended up leaving the farm. I tried

1 watering it from the city water, curing the water,
2 and it was just too difficult for me to do. And I
3 ended up moving to downtown London. It was heart
4 breaking. And some of the other impacts were the
5 roads were destroyed by the trucks. I have
6 several family members that work in the mines. I
7 have several family members that own property that
8 are being mined. And I support mining, in the
9 sense that I know that people need jobs, but I --
10 there needs to be some kind of controls. I walked
11 out into the stream three days after that initial
12 release, and the bottom was covered with this gray
13 slime that was just really slick, and it just
14 destroyed my life and --

15 MS. MacPHERSON: Yeah. Thank -- thank you
16 for that --

17 SPEAKER NO. 117: Thank you.

18 MS. MacPHERSON: -- for that comment. Thank
19 you. (Applause). Okay. Next speaker.

20 SPEAKER NO. 96: For the record, I was
21 registered as speaker number 96.

22 MS. MacPHERSON: Oh.

23 SPEAKER NO. 96: I'm Robert Padgett,
24 P-a-d-g-e-t-t. And the comments are directed,
25 luckily, because there's not many folks left

1 except these hard-working EPA folks, to the EPA
2 itself. I'm a -- have a degree in biology, I have
3 registered professor jobs that's in the state, and
4 I'm a 27-year retiree from the Environmental
5 Protection Cabinet. Nine years of abandoned mine
6 lands, nine years with superfund, nine years with
7 sanitary and fly ash landfill permitting.

8 The reason that I support that your-all's
9 objections to the permit and permits and -- and I
10 encourage you to stick with it and toe the line,
11 is the -- the -- ad -- while there are many people
12 working for the Cabinet who are my good friends
13 and want to do a good job, the chance of them
14 doing a good job and coming to fruition is about
15 as much chance as a blackside darter has below a
16 coal landfall [ph]. It's not going to happen.
17 The political influences and the things that go on
18 in the Cabinet prohibit us from being able to be
19 innovative, to be able to work together on things.
20 You must toe the line and do the things in front
21 of you.

22 From the first day to the last day of my
23 employment, I watched political influence, graft
24 corruption, kickbacks, sweet-cut deals. Many
25 times failing to get any compliance from this

1 Cabinet, I ended up having to blow the whistle on
2 them, the different federal agencies and
3 enforcement agencies. For all of that, I ended up
4 my last two years sitting in a cubicle entering
5 data into a computer. No longer was able to be a
6 supervisor after 20 years as a supervisor, no
7 longer even able to discuss the technicalities of
8 permits with anyone on staff. They are a vicious
9 bunch if you turn against them.

10 So I encourage you to stay in the line, toe
11 it. They will not be able to come through. The
12 influence is amazing on the worker level. So many
13 good ideas, so many people wanting to do good
14 things in the Cabinet, but the upper echelons will
15 just not let it happen. So I encourage you to
16 stay the line, don't go soft on them, don't think
17 that this has been -- maybe we ought to think
18 twice about it. It's a good agency. It's a good
19 people, but the Agency itself somewhat stinks.
20 Thank you all. And bless you for staying this
21 long. You've been really well.

22 (Applause)

23 MS. MacPHERSON: Thank you for coming to
24 speak. Okay. Next speaker.

25 SPEAKER NO. 114: Hi. My name -- oh, sorry.

1 My name is Beth Bissmeyer. That's
2 B-i-s-s-m-e-y-e-r. And I'm a member of
3 Kentuckians of -- for the Commonwealth from
4 Louisville. And I've lived in Kentucky all my
5 life. I'm here tonight to stand with my friends
6 in eastern Kentucky whose health and welfare is
7 jeopardized daily by polluted air and polluted
8 water from surface mining. Multiple studies have
9 shown that people living in mining communities
10 suffer higher rates of cancer, heart, lung, and
11 kidney disease compared to people living in nearby
12 nonmining communities. We need to stop
13 sacrificing our land, water, and our people to the
14 devastations of surface coal mining. It is long
15 past due for just economic transition for workers
16 and communities in coal mining areas.

17 We keep seeing shirts and bumper stickers
18 that say, "Coal keeps the lights on," but it won't
19 for much longer, and that's through no fault of
20 the EPA. It's called fossil fuels for a reason.
21 Coal will not be here forever, but the devastation
22 that has resulted from mountaintop removal mining
23 will have long-lasting negative impacts on our
24 communities.

25 I want to thank the EPA for objecting to

1 these permits and for holding this hearing to
2 allow citizens to share our concerns. Our own
3 governor has urged the EPA to get off our backs
4 when referring to regulations. But I thank you
5 for watching the backs of all Kentuckians who want
6 clean water and a safe healthy environment for our
7 children. Please stand strong. Thank you.

8 (Applause)

9 MS. MacPHERSON: Thank you. Okay. Next
10 speaker.

11 SPEAKER NO. 100: My name is Megan Naseman.
12 And the last name is spelled N-a-s-e-m-a-n. In
13 2010, a group of young people from across the
14 state gathered to meet with Governor Beshear's
15 Administration regarding Kentucky's energy
16 policies. Myles was one of those young people, so
17 you know it was a good crowd. I was very struck
18 by the courage of one young person from Pike
19 County who was five at the time, she talked about
20 what it was like to be a five-year-old living near
21 active mine sites. She spoke truth to power about
22 what it's like to live with the dust from coal
23 trucks on her road and how scary the loud
24 explosions in her neighborhood are.

25 The part of her comments that was most moving

1 to me was her holding up a bottle of her tap
2 water, which was tested to contain 130 times the
3 legal limit of arsenic from mining activities.
4 She asked if any of the officials would drink this
5 water. Of course, no one said they would. The
6 response of that group of Kentucky politicians and
7 officials is, unfortunately, consistent with the
8 administrative stance on the Clean Water Act.

9 When the Kentucky Energy and Environment
10 Cabinet fights citizen participation in Clean
11 Water Act lawsuits, when state officials literally
12 say to children, "No, I won't drink that water
13 either," and yet continue to do business as usual,
14 when we know that people living near mountaintop
15 removal are at a higher risk for cancer and other
16 chronic health diseases, yet such pollution
17 continues to be sanctioned by this state, it is
18 clear that we are in desperate need of the EPA
19 upholding citizens' rights to clean water.
20 Kentucky's youth have the courage to stand up for
21 clean water. For the health of the people of this
22 region, I urge the EPA to join them. Thank you.

23 MS. MacPHERSON: Thank you. (Applause).
24 Okay. Next speaker.

25 SPEAKER NO. 116: Hello. My name is Curtis

1 Morrison, C-u-r-t-i-s, Morrison. First, I want to
2 thank the EPA for being here and thank the EPA for
3 all their great work in Kentucky. I'm a Kentucky
4 Democrat, yet my governor, Steve Beshear, does not
5 speak for me. I am very grateful to the EPA, very
6 grateful to President Obama for doing what's best
7 and holding coal miners accountable. And, also,
8 sorry about the blue shirt. I didn't get the
9 memo. That's all. (Audience members respond).

10 (Applause)

11 MS. MacPHERSON: Thank you for your comment.
12 Okay. Next speaker.

13 SPEAKER NO. 110: My name is Samantha Cole,
14 C-o-l-e. And I'm currently living in Madison
15 County, but my hometown is in Beattyville,
16 Kentucky, in Lee County, Kentucky. I'd like to
17 share with you three stories. The first is pretty
18 short. My great papaw Ed died in part due to
19 complications of black lung disease. The second
20 story is a bit longer. My papaw Clyde, once
21 needing a job to feed five children, worked a
22 single day in a deep shaft mine. He could do the
23 work even though they had crammed him into a part
24 of the seam where he had to lay on his side and
25 dig coal with one arm. It wasn't for him, so he

1 threw down his hat and quit. Both these men are
2 heroes. Ed was a hero because he gave his life
3 for coal, and Clyde was a hero because he stood up
4 to the boss man. I'm here for both.

5 I have one more story to tell. A few years
6 ago I was in Santa Fe for a gathering of rural
7 youth. My roommate, Julia, was from Texas.
8 During the first few hours I saw her go to the
9 sink and get a glass of water. I watched
10 horrificed as she drank it. Surely, no one drank
11 tap water. But she did because she wasn't from
12 Beattyville. There, we don't drink the city water
13 because of what's in it, not just chemicals meant
14 to treat it, but pollution. Pollution, that also
15 means we can't swim in the river or eat fish from
16 the river. And although there are other sources
17 of pollution, the coal industry is one of the main
18 ones. It affects all of us.

19 My parents buy water to drink, but they still
20 bathe in and cook with the tap water. The school
21 children, the patients in the nursing home, and
22 countless others are exposed to pollution. It's
23 that same cycle all over again. People's lives
24 for money. Remember Ed.

25 Now, here's where I go into the Clyde. Each

1 time a permit is issued that allows pollution in
2 Kentucky River, the Beshear Administration is
3 killing citizens. The Administration is murdering
4 Kentuckians.

5 To say, thus, we need the EPA to stand strong
6 and reinforce the Clean Water Act. We need the
7 EPA to take over all Clean Water Act permitting
8 and enforcement. Someday, I'd like future
9 generations to be able to drink the water in
10 Beattyville and to be able to swim and fish.
11 Thank you.

12 (Applause)

13 MS. MacPHERSON: Thank you. Thank you.
14 Okay. Next speaker.

15 PUBLIC SPEAKER: I'm Dave -- I'm Dave Cooper
16 from Lexington. I want to raise a point. I
17 don't -- I don't think it's been mentioned yet
18 tonight, about why we do need the EPA and why we
19 really can't count on our state government to deal
20 with these water quality issues. You know, heavy
21 metals are very difficult to remove from drinking
22 water. And people seem to have this faith in
23 technology that the water treatment plants can
24 just do this magic, and no matter what comes down
25 the river the water treatment plant will be able

1 to filter it out and everything will be fine.

2 I'd like to mention something that's happened
3 in the community of Whitesburg in Letcher County,
4 Kentucky, over the last three years. It's a
5 wonderful little town in the mountains. It's a
6 beautiful place to visit. They have beautiful
7 mountains. They -- they do have strip mining, but
8 they have a problem with their drinking water.
9 And the problem is, oil spills in the drinking
10 water. There was a company that spilled oil,
11 diesel fuel, actually, in the -- into the drinking
12 water in October of 2008, and, again, the same
13 company in February of 2009. And the company
14 agreed to pay a \$500,000 settlement, and they were
15 instructed to install -- the local water treatment
16 operation was instructed to install an upgraded
17 carbon filtration system. Then there was another
18 spill in February of 2011, and it got into
19 people's tap water. People were turning on their
20 taps and they could smell the petroleum in their
21 tap water in Whitesburg after they had supposedly
22 taken these corrective measures.

23 So I don't feel like we can really rely on
24 the local water treatment plants or our state
25 government to -- to handle these problems. We

1 have to rely on the federal government. That's
2 why I'm really glad the EPA is here. Thank you.

3 (Applause)

4 MS. MacPHERSON: Thank you. Are you our last
5 speaker?

6 PUBLIC SPEAKER: I am the last.

7 MS. MacPHERSON: Pressure. Okay.

8 PUBLIC SPEAKER: I know. I apologize.

9 MS. MacPHERSON: No.

10 PUBLIC SPEAKER: Well, you certainly can look
11 around and see who still cares at the end of the
12 night. (Applause). My name is Alex Desha. I'm a
13 Sierra Club member. I live in Whitesburg,
14 Kentucky. And as Dave said before me, I cannot
15 drink the water.

16 You can walk by just about any holler with a
17 surface mine and see poison water in dead streams.
18 We are here today because the state has failed us.
19 The Beshear Administration does not seem to care
20 about people or water. They seem more concerned
21 about the bottom line, of wealthy coal CEO's who
22 pay themselves \$6 million a year, fly around in
23 their private helicopters, and vacation in their
24 separate -- in their second homes. They do all
25 this while they layoff real people.

1 They, like the Beshear Administration, do not
2 care about people. Are they concerned about jobs?
3 No. It's a ploy. So they certainly don't care
4 about clean water and public health. They want
5 you, the EPA, to lift your objections or to water
6 them down so much that they do not matter. These
7 hearings are designed to intimidate. Well, these
8 are the facts surrounding dangerous surface mining
9 practices here in Kentucky.

10 Those living near destruction suffered rates
11 of cancer 50 percent higher than the surrounding
12 population. They are 42 percent more likely to
13 have children with birth defects. In some
14 counties, their life expectancy has been decreased
15 by over a year. The fact of the matter is, is
16 that water quality is a good indicator of human
17 health. If we have poor water quality, we have
18 unhealthy communities.

19 The Beshear Administration does not seem up
20 to the task. The Kentucky Department of Water
21 does not seem up to the task to protect our water
22 or our health. It is time for a transition.

23 I urge the EPA to hold the line, to reaffirm
24 your objections, and do not listen to the fear
25 being peddled by the coal industry. I urge you to

1 go a step further and revoke the state's authority
2 to issue these water permits. Thank you.

3 (Applause)

4 MS. MacPHERSON: Thank you. And if there are
5 no more public comments, I'd like to turn it back
6 over to Jim Giattina for closing remarks. Jim.

7 MR. GIATTINA: Thank you, again, Charlie.
8 I -- I really want to express my appreciation to
9 everyone who turned out and those of you who are
10 here sticking it out to the very end. We very
11 much appreciate your patience and your
12 participation.

13 The comments that we have received this
14 evening, all the oral comments will be
15 transcribed, all the written comments that we've
16 received will be very seriously considered and
17 evaluated by my Agency as we make the final
18 determination regarding the permit objections.
19 After we consider the administrative record, the
20 requirements of the Clean Water Act and its
21 regulations, the EPA regional administrator will
22 make a determination concerning the objections.
23 And, as I said, at the outset, we'll be notifying
24 Kentucky DOW, the Cabinet, the districts, and all
25 the persons having -- that have provided written

1 comments or oral statements, if a mailing address
2 was provided to us. Additional information,
3 again, regarding these procedures are available.
4 You can contact Mr. Chris Thomas sitting to my
5 right.

6 And, again, I thank you for your
7 participation. If you have any other questions or
8 comments, you can always reach EPA through our
9 website, or at our Region 4 public information
10 number, which I think is on the slide behind me.

11 So, at this time, I will adjourn this
12 hearing. Thank you again.

13 (Applause)

14 (Public hearing concluded at 10:20 p.m.)
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1 REPORTER'S CERTIFICATE

2 STATE OF KENTUCKY)

3 COUNTY OF FAYETTE)

4 I, DENISE Y. VASQUEZ, RPR, KyCCR, and Notary
5 Public in and for the Commonwealth of Kentucky at
6 Large, do hereby certify that the facts as stated by
7 me in the caption hereto are true; that the foregoing
8 proceedings as indicated were made before me by the
9 parties hereinbefore named, and were thereafter
10 reduced to computer-aided transcription by me and
11 under my supervision; and that the same is a true and
12 accurate transcript of the proceedings to the best of
13 my ability.

14 I further certify that I am not employed by,
15 related to, nor of counsel for any of the parties
16 herein, nor otherwise interested in the outcome of
17 this action.

18 IN WITNESS WHEREOF, I have affixed my
19 signature and seal this 11th day of JUNE, 2012.

20 DENISE Y. VASQUEZ, RPR, KyCCR
21 Notary Public, State-at-Large
22 2404 Doubletree Court
23 Lexington, Kentucky 40514
24 859.533.8961

25 My Commission Expires: November 26, 2015

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